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ISSN 1180-4335

## Legislative Assembly of Ontario

First Session, 40<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Première session, 40<sup>e</sup> législature

# Official Report of Debates (Hansard)

Tuesday 6 March 2012

# Journal des débats (Hansard)

Mardi 6 mars 2012

## Standing Committee on Government Agencies

Organization

## Comité permanent des organismes gouvernementaux

Organisation



Chair: Bill Mauro  
Clerk: Trevor Day

Président : Bill Mauro  
Greffier : Trevor Day



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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES  
ORGANISMES GOUVERNEMENTAUX

Tuesday 6 March 2012

Mardi 6 mars 2012

*The committee met at 0903 in committee room 1.*

## ELECTION OF CHAIR

**The Clerk of the Committee (Mr. Trevor Day):** Honourable members, it is my duty to call upon you to elect a Chair. Are there any nominations?

**Ms. Helena Jaczek:** I nominate Bill Mauro.

**The Clerk of the Committee (Mr. Trevor Day):** Mr. Mauro, do you accept the nomination?

**Mr. Bill Mauro:** I do.

**The Clerk of the Committee (Mr. Trevor Day):** Are there any further nominations? Any further nominations? Seeing no further nominations, I declare nominations closed and Mr. Mauro duly elected as Chair.

**The Chair (Mr. Bill Mauro):** Thank you.

## ELECTION OF VICE-CHAIR

**The Chair (Mr. Bill Mauro):** Okay, we're looking for a motion to appoint the Vice-Chair. Ms. Sandals?

**Mrs. Liz Sandals:** I nominate Phil McNeely to be the Vice-Chair.

**The Chair (Mr. Bill Mauro):** Phil McNeely. Any other nominations? All in favour of Mr. McNeely as Vice-Chair? Well, Phil, you've swept the room.

## APPOINTMENT OF SUBCOMMITTEE

**The Chair (Mr. Bill Mauro):** Subcommittee.

**Mrs. Liz Sandals:** I have the motion.

**The Chair (Mr. Bill Mauro):** Ms. Sandals.

**Mrs. Liz Sandals:** I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair or at the request of any member thereof, to consider and report to the committee on the business of the committee;

That the presence of all members of the subcommittee is necessary to constitute a meeting;

That the subcommittee be composed of the following members: the Chair as chair, Ms. Jaczek, Mr. McDonell and Mr. Tabuns; and

That substitution be permitted on the subcommittee.

**The Chair (Mr. Bill Mauro):** Thank you. Any discussion? Are members ready to vote? All in favour? Carried.

## BRIEFING

**The Clerk of the Committee (Mr. Trevor Day):** Welcome to the committee. This particular committee has a two-part mandate, one being the review of intended appointments to certain agencies, boards and commissions, the other being the review of those agencies, boards and commissions.

I've left a copy of the standing orders at each person's spot. You've also received a copy of the resource binder.

I don't want to go into any huge detail here. There is a process laid out where the subcommittee will make selections on intended appointments for each of your parties. I was hoping that the subcommittee members could stay back a little bit after the meeting, just so we can start that process.

Other than that, I am here for your confidential, impartial advice on procedural matters and on the workings of the committee. My contact information is on the resource binder at the back, and I'm happy to answer any questions anyone has, be it before, after or during the committee.

I'm going to turn it over to Larry, just briefly, for his role.

**Mr. Larry Johnston:** My name is Larry Johnston, research officer for the committee. Research provides backgrounders for the agency appointments and agency reviews, conducts research at the request of the committee, and drafts committee reports on the instructions of the committee. And, of course, individual members can always consult Research for non-partisan, objective research.

**The Chair (Mr. Bill Mauro):** Any questions on any of that? Seeing none, okay, thank you very much. I think we're adjourned.

*The committee adjourned at 0906.*



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### STANDING COMMITTEE ON GOVERNMENT AGENCIES

#### **Chair / Président**

Mr. Bill Mauro (Thunder Bay–Atikokan L)

#### **Vice-Chair / Vice-Président**

Mr. Phil McNeely (Ottawa–Orléans L)

Mrs. Donna H. Cansfield (Etobicoke Centre / Etobicoke-Centre L)

Ms. Helena Jaczek (Oak Ridges–Markham L)

Mr. Bill Mauro (Thunder Bay–Atikokan L)

Mr. Jim McDonell (Stormont–Dundas–South Glengarry PC)

Mr. Phil McNeely (Ottawa–Orléans L)

Mr. Randy Pettapiece (Perth–Wellington PC)

Mr. Peter Tabuns (Toronto–Danforth ND)

Miss Monique Taylor (Hamilton Mountain ND)

Ms. Lisa Thompson (Huron–Bruce PC)

#### **Substitutions / Membres remplaçants**

Mr. Rosario Marchese (Trinity–Spadina ND)

Mrs. Liz Sandals (Guelph L)

#### **Clerk / Greffier**

Mr. Trevor Day

#### **Staff / Personnel**

Mr. Larry Johnston, research officer,  
Legislative Research Service



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Première session, 40<sup>e</sup> législature

# Official Report of Debates (Hansard)

Tuesday 20 March 2012

# Journal des débats (Hansard)

Mardi 20 mars 2012

## Standing Committee on Government Agencies

Intended appointments

## Comité permanent des organismes gouvernementaux

Nominations prévues



Chair: Bill Mauro  
Clerk: Trevor Day

Président : Bill Mauro  
Greffier : Trevor Day

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## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES  
ORGANISMES GOUVERNEMENTAUX

Tuesday 20 March 2012

Mardi 20 mars 2012

*The committee met at 0900 in committee room 1.*

## SUBCOMMITTEE REPORTS

**The Vice-Chair (Mr. Phil McNeely):** The first issue is to deal with the following subcommittee reports: March 8 and March 15. We have all seen the reports in advance, so could I please have the motion?

**Mr. Jim McDonnell:** I move that your subcommittee considered, on Thursday, March 8, 2012, the selection of intended appointments for committee review and has agreed as recommended.

**The Vice-Chair (Mr. Phil McNeely):** Is there any discussion on the March 8 report? None? All in favour? Against? Carried.

Ms. Jaczek, would you read the March 15 motion?

**Ms. Helena Jaczek:** Yes. Thank you, Chair. I move adoption of the report of the subcommittee dated Thursday, March 15, 2012.

**The Vice-Chair (Mr. Phil McNeely):** Any discussion? All in favour? Against? Carried.

## INTENDED APPOINTMENTS

## MR. MARTIN FORGET

Review of intended appointment, selected by official opposition party: Martin Forget, intended appointee as member, Council of the College of Physicians and Surgeons of Ontario.

**The Vice-Chair (Mr. Phil McNeely):** The first candidate we're considering this morning is Martin Forget. You're already at the table, I see. You're nominated as a member of the Council of the College of Physicians and Surgeons of Ontario.

Mr. Forget, please come forward, which you already have done. You may begin with a brief statement, if you wish. Upon conclusion, we will then have about nine minutes per party to ask you questions. With that questioning, we will start with the official opposition.

We'll open the floor and ask you to make your presentation. So thank you very much for being here, and you may start now.

**Mr. Martin Forget:** Mr. Vice-Chair and members of the committee, I appreciate the privilege to appear before you. Today, I'm here to discuss with you how my

experience could best serve the interest of the public if you were to appoint me as a council member of the CPSO.

To begin, I would like to highlight that I am a proud and active member of the Franco-Ontarian community.

C'est avec honneur aujourd'hui que je comparais devant vous pour discuter de comment mes compétences et mon engagement potentiel pourraient mieux servir l'Ordre des médecins et chirurgiens de l'Ontario, avec l'intérêt mutuel du public et de ses professionnels.

If I were to be appointed, I would bring 27 years of diversified business experience and continuous service with private and public sector and several national, international and local community organizations. I come from a family of public service. With my spouse, a former MP and Toronto city councillor—most recently appointed by the Prime Minister to an international position—together we've dedicated a good portion of our lives towards investing in public service.

My peers describe me as a forward-thinker, versatile leader and driver of innovation and strategic initiatives. I never lose sight of the fundamental mission of the organization I work for and the people it serves. I've tackled very complex organizational issues where I've had to make critical decisions that have impacted people's lives. You will be told by people working with me that my decision-making process history has always been supported by facts and has led to fair results for everyone.

On the professional side, I am a technology industry executive. Since late 2010, as a management partner with Veridys International, which is a company that I founded, I've specialized in the development of renewable energy solutions. But most relevant to this position, from 2006 to 2010, where I've gained interest in the health care sector, was the fact that I was an executive vice-president at Telus, leading their health care information technology strategy. This is where I gained good understanding of the health care system, but most importantly, the workflow of the system and the patients it serves.

Setting aside my technology background, I am an experienced executive. I understand complex organizational governance. As a self-regulated body, I understand the role of the CPSO to serve the public while keeping a fair balance for its professionals. I don't profess to know everything about the CPSO, but working closely with the medical profession and the patient groups, I believe that



if I were to be appointed, I could help the organization evolve and continue to fulfill its mission.

So, how could I best serve the CPSO as a council member? Strategic planning, budget management, resource performance and management are all key activities that I have participated in and I have experience with—more specifically, my experience with HR, where I've had to deal with the challenges of disciplinary and performance issues, people development, management, retention and recruitment.

As a client relationship specialist, I've developed and overseen quality assurance and measurement programs and ensured that service-level agreements were met across many sectors I've worked in, including health care, which I understand I have a good background in from a technology perspective.

Of course, my knowledge in health care information management would be most relevant for activities relating to education and, dear to my heart, information sharing and the issues of privacy that we're all confronted with now, with the new technologies in front of us.

I hope I've demonstrated to you today in this short statement why I could fulfill this role and work in the best interest of the public. I appreciate your consideration of my candidacy and look forward to answering your questions and concerns. Thank you. Merci.

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much. We'll start now with the questioning by the official opposition. Mr. McDonell.

**Mr. Jim McDonell:** Good morning, Mr. Forget. Just from my own background at Bell Canada, I got to see the technology side of it. Do you see your role in the college as being proactive, as far as our health care and some of the changes we're looking for? Do you see the—

**Mr. Martin Forget:** Yes. It's a self-regulated body and it has the opportunity to actually participate and innovate, because if the college doesn't actually take an active participation with all the things that are happening also—because we're talking about the college but there are other professions we have to interact with. I see it from a workflow process. I'm a guy who comes from taking a business process and basically optimizing it and making it more efficient. So, absolutely, they have to, because the bottom line is, when you interface with a doctor and the multi-professionals of other disciplines that are around, their workflow is impacted. The college has to have a say, but also it has to be receptive to interworking with the other professions.

I would say, also, the Drummond report actually highlights this, on how it is so important. Otherwise we will not meet the objectives that—we'll be failing. So, yes, of course; my answer is yes.

**The Vice-Chair (Mr. Phil McNeely):** Further questions? Mr. Pettapiece.

**Mr. Randy Pettapiece:** I see you worked for Telus Health. On their website, they listed several achievements their systems and developments in health IT can claim credit for. Can you outline your role and

your contributions during your years at Telus? And what are you most proud of?

**0910**

**Mr. Martin Forget:** Actually, my role started, ironically, with a company that Telus acquired, which was called BCE Emergis, and now it's Telus. But in BCE Emergis—Emergis being a small and agile company—one of the roles that I played was—the baseline strategy that you know has the results that they can make their claim—I was the lead for Ontario in developing a strategy for all the things that now are happening. Whether it's drug information systems, the health care records at the Ottawa Hospital, these are the things that I've actually participated in. The clinical workflow was part of being able to advance the strategy, beginning at the anticipation of the strategy to where it is today. So I would say my contribution to Telus today and what is claimed today—I was at the seed role when it was Emergis. About a year and a half later when I was hired as a vice-president at Emergis, that contributed to why Telus actually acquired us, because we had such a strong foundation with the—I won't go into technology jargon—Oasis background, which is what TOH, the Ottawa Hospital, adopted and became somewhat a huge foundation of what today they are successfully promoting not only in Canada—I always say that when I was there I said “built in Ontario for the world,” because it was not just to suffice for the needs. Telus acquired Emergis not from the perspective that it just wanted Toronto, Ontario, or the Ottawa Hospital; it acquired it because it had a big picture, as you know those core operations. So we were acquired because of that.

The claims that Telus is making I'm very proud of, and actually you could talk to some of the executive. François Côté and other people who I reported to can say I was instrumental in actually being a thought leader. That's how I would qualify myself. I wasn't the guy plugging in the wires behind the scenes, though I was a hands-on guy that actually went in there. My passion was understanding the workflow of delivering service. If you look also, at my background, way back at Nortel, I was a guy who specialized in service-level agreements.

**Mr. Randy Pettapiece:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Given the current economic climate, “efficiencies” is a refrain we're going to hear a lot of, including health care and the realization of efficiencies, if you will. So being in the position that you're being appointed to, you'll have a prime position to advocate and realize efficiencies in terms of managing the patient, physician and, essentially, the whole health system relationship.

Given your experience, will you advocate for greater electronic record integration, and if so, how? And what else will you bring to the table?

**Mr. Martin Forget:** Well, look, I'm being accused of often being—in my opening statement, people have accused me of being an innovator. Yes, of course, I will



promote innovation. I will promote taking strategic initiatives. I don't necessarily always take no for an answer, and I understand the role that I have to play in the CPSO because I'm not there to legislate or dictate to anybody what to do. I'm there to bring some recommendations and do a bit of oversight.

But yes, I am a big promoter—look, we're in a race, and I believe that in the Drummond report, there is a race. I think it has been put in front of us. There is a race for making health care more efficient, because we're all going to be losers.

Just from personal experience, and I think you've all been through this, patient records—when I have to repeat—by the way, I have a very complex health history from 1993; patient records, where I have to go from one specialist to another to another, where through my laymen's statements I have to describe all the time and cryptic notes passed on from one doctor to another. Today, in this day that we still don't have integration across Ontario, to me it's very frustrating because I've been promoting this for the longest time. We have to have this. Plus, I've looked at other jurisdictions.

So my answer to this is yes; we need to have this and business process automation. I hate putting the term “business” on health care, but it is a business in a sense because there are companies; it's a workflow. The bottom line is, we need to take those doctors, how they're interacting together and basically take these business processes and map them properly.

Now, there are some handicaps, by the way, that we overcome, because there are old rules that we have to consider from not only the patient record and the patient safety perspective—that's top of the line—but even the way physicians may view, for example, their fees. Physicians sometimes will actually be upfront: “Oh, by the way, you know, I can't give you this result, because you have to come in, because the rules of the book of how I get paid are this way.” Why? Because they're framed within what I would call a somewhat old, too old, process of how they're getting paid, and that's the bottom line. When we say “patient record,” it involves providing the service also from the payment system.

So, if we could crunch all of this, and I don't have a magic stick—if I would, I'd know what to do, but if I could, it would be by taking all these processes and bringing them down and automating them, which actually will relieve those practitioners—doctors, nurse practitioners—all across the workflow, relieve them to provide better service, to provide more time, and probably for a better earning, actually. So that's what I promote; that's how I promote the health record.

**The Vice-Chair (Mr. Phil McNeely):** We have approximately 20 seconds left. Any further questions?

**Mr. Jim McDonell:** Just a quick question. Do you see being able to influence as we try to move towards electronic health care records or—

**Mr. Martin Forget:** Do I see being able to? Yes, and this time, in this capacity, what I'd like is—well, obviously in a neutral role versus, in the past, I was giving

you the same speech, but I'd say, “Oh, but, by the way, you have got to take my bits and pieces.” Now, that's the beauty of it being neutral.

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much. We'll now go to the third party, Mr. Tabuns or—

**Mr. Peter Tabuns:** Thank you, Mr. Chair.

Mr. Forget, thank you for appearing before us this morning. Can you tell us again, why is it that you wanted to be on this college? There is a variety of colleges that address the broad medical sector. Why this one?

**Mr. Martin Forget:** Well, I said in my statement that I understand the public service, and I've been involved, because together, my spouse and I just eat public service.

I'm aware of the opportunity to serve, so I've always looked at different opportunities, from technology to involvement in energy, but this application actually came up, and I said, “This is very relevant to me, what I know and what I can contribute.” I'm at this point in my life, by the way, that I have, I hate to say this, spare—not spare time in the sense that it's a point in my life where I've made a decision to now start getting involved way more than being consumed by business.

So this one in particular because I understood the workflow quite well, and actually, also, from a personal perspective, from being a patient. As I said, I had a complex medical history. Today I'm walking, and I'm very happy, but when doctors come across me, they say, “Oh, you've had that”; so they look at me, and it's a very complex file. I get involved personally in a sense from the way they do business, and we start talking, and I start getting involved in talking with them about the workflow and their frustrations.

When the CPSO opportunity came up, it was actually a pleasant surprise. I'll say that the remuneration was something that I wasn't—compared to other boards I could have potentially applied to. But, to me, it was like, “Well, look, if I were to do this for two, three years, I could really contribute,” and when I was lining it up with the Drummond report, “Well, how can I help actually participating in an agency that actually could meet the objective, could meet the race, because we're far from meeting the race. So how can I contribute?” So the CPSO, the workflow, the understanding of the business, the understanding of the services, was why I selected it.

**Mr. Peter Tabuns:** Okay. And can you tell me what elements were outlined in Drummond that you hope to carry forward within the CPSO?

0920

**Mr. Martin Forget:** Efficiency, complete efficiency and—

**Mr. Peter Tabuns:** “Efficiency” is a very broad term.

**Mr. Martin Forget:** It's basically integration, more of a seamless integration—look, I'll state an opinion that maybe not everybody agrees to. I don't know; maybe you all agree to this. It doesn't necessarily touch the CPSO directly, but on a greater perspective, I think we have layers of administration that are actually robbing each level of service. That money could be actually going



towards better ways, and it's stated in the Drummond report. I'll leave it at that.

**Mr. Peter Tabuns:** Okay. What role do you want to play within the college? We'll have a council that a variety of people will take different leadership tasks on. What is it that you want to do?

**Mr. Martin Forget:** Specifically, I looked at a series of things. Education, I think, is one of the pieces I want to bring, because my background in information management is a big part of education, not from a medical—the process of actually being a surgeon—but the tools that are being taught in schools.

I also have, from an education perspective—we say “education,” but what about our legacy doctors who are still practising and have a long way, actually, to retire? My doctor, to be honest with you: His office is nice; it's back in vogue; it's still in the 1970s in terms of the décor, and all his paperwork is still in the 1970s. So when I talk to him about integration—“Do you have a hand-held?” We talk about these things, and he's scared. He's very scared.

We talk about education in the field. What about our legacy practices? Then, the transfer of those legacy practices to the people who are coming out of school, which is a challenge, taking over those practices.

Also, from a disciplinary perspective—I have a background in HR. I have managed lots of people. I was in Nortel, where I had to do a lot of disciplinary performance-crunching. Unfortunately, as we know, it doesn't exist anymore. But I've had to make some hard choices, so from a disciplinary perspective, that's a part I enjoy.

I've listed a few of them, actually, that are of importance to me. Looking at government programs, quality assurance—I should basically put at the top of the line quality assurance—service level agreements. By the way, when you're involved in technology, one of the things that you do is patient safety. It's all about patient safety. You're asking me about, “Why the integration of clinical records?” It's about patient safety, whether it's in the telecom perspective, having wireless, being able to follow a patient from point A to point B, if they're roaming around, an elderly person. For example, wireless technology can now locate where people are, where instruments are. So patient safety is one of the top things.

**Mr. Peter Tabuns:** I think I'm getting a sense of your interests.

The integration of nurse practitioners into our medical system: There's some controversy about that. When we talk about integration, I think of the integration of a broad range of health care workers, health care professionals. What's your perspective on increasing the role of nurse practitioners in our health care system?

**Mr. Martin Forget:** I'm a believer in it and I'm a person who's actually being served by it. I'm a member of a family health team in Parkdale and I know how it works. To be honest with you, I've been picked up by a doctor. The way the system works—it's an excellent position. I know there's some controversy, and Bill 179, I

think, is one of the things that's bringing in nurse practitioners. I think there are other opportunities to integrate more in order to relieve the system.

**Mr. Peter Tabuns:** Can you suggest which other opportunities those are?

**Mr. Martin Forget:** I think we should look at complementary treatments, medicine, therapies. But, to be honest with you, I'm a believer in science. Facts are facts. So it's very important that we don't—we've got to look at it closely. Science is science, and I'm more of a—there are some things that actually can be integral. Actually, the thing is, all the doctors I go through—it's interesting because all of them, that's my experience, suggest, “Have you consulted with?” When it comes time to referral, maybe it's a little more difficult. You say, “Oh, could you refer?” “Well, you know, I don't really know.” It's not integrated. So there's that part, again.

I have a back problem, actually, right now—

**The Vice-Chair (Mr. Phil McNeely):** You have 20 seconds left in your time.

**Mr. Peter Tabuns:** Okay. I have no further questions. Thank you very much.

**The Vice-Chair (Mr. Phil McNeely):** Now we're going to the government side. You have four minutes.

**Ms. Helena Jaczek:** Thank you very much. Monsieur Forget, you've given us a great deal on your management and your IT background. Could you just flesh out for us a little bit of your experience on governance; boards you've served, committees, and so on?

**Mr. Martin Forget:** Well, the job I hate the most is being a secretary of a board, so if you've been this you understand the mechanics of it. Obviously, my background comes more from participating on the corporate side. I've been a business owner, co-owner; I know how this works. I've worked also for a publicly traded company; I know how that works.

From a community perspective, I've participated in numerous boards, from ACFO Toronto, which was my participation as a francophone, because I'm an active francophone member. Also, I participated in several international—from an advisory board perspective—organizations, some that have to do with delivering community services, for example, in Southeast Asia. I'm still active there.

I don't profess to know everything about governance. In governance, you're always confronted with new things that are happening on an executive level. I don't have a formal training; it has been learned along through experience, but I think I hold my own.

**Ms. Helena Jaczek:** Just as a follow-up, obviously, as you know, the CPSO board is made up of physicians as well as lay members. You will be a lay member. What particular attributes do you think you bring to the board, which is obviously looking for diversity amongst its members to fully represent the public?

**Mr. Martin Forget:** Well, to be honest with you, one of the things I think my francophone—I highlighted my francophone background. There are so many French Canadians, by the way, in Toronto. I think I can represent



and look at being more of a vehicle of information within the CPSO—especially for metropolitan Toronto—for all the French Canadians who are dispersed all over the GTA. That's one of the contributing roles I think I'd like to make as a francophone board member.

I think there's another lady sitting currently who is a francophone from Cornwall. I looked at that, and I think that would be a great opportunity to have two actually; one representing eastern Ontario and Toronto. In Toronto, and the Windsor area also, there's a bastion of French Canadians that I'd like to contribute to.

**Ms. Helena Jaczek:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much. Time is up. Merci beaucoup, monsieur Forget. Thank you, Mr. Forget.

#### MR. HARVEY McCUE

Review of intended appointment, selected by official opposition party: Harvey McCue, intended appointee as vice-chair, Ontario Heritage Trust.

**The Vice-Chair (Mr. Phil McNeely):** We will now ask Harvey McCue to come up to the table. You may begin a brief statement now. Upon conclusion, we'll then have about nine minutes per party. The government time is taken out of your statement. You may begin now.

**Mr. Harvey McCue:** Thank you, Mr. Chair. Good morning, everyone. It's a distinct privilege and honour to be here with you this morning to be considered for the position of vice-chair of the Ontario Heritage Trust.

My name is Harvey McCue. I'm a member of the Georgina Island First Nation, which is situated in Lake Simcoe, just north of Toronto. I was raised on a reserve until I left home for university.

0930

As a child and as a youth and a young adult, I was keenly aware of the heritage and history of my environment. I particularly remember walking to public school in Roches Point, passing by the remnants of the small-gauge railway that used to run from Toronto to Jackson's Point. In the 1950s, there were still remnants of that small-gauge railway, although we, as children, didn't really appreciate what it stood for. But certainly, today, memories of that are still vital to the heritage of this province.

Also, as a youth growing up on Lake Simcoe, there were a number of resorts and lodges that sprinkled the shores of Lake Simcoe during the 1930s and 1940s and into the 1950s. It was a popular spot for summer visitors, particularly from Toronto, before the Muskoka district achieved its reputation. Unfortunately, today, most of those sites have been lost to the province. I remember, again, as a youth, that these were magnificent buildings. They were all wooden structures, of course; some were destroyed by fire, but others just simply deteriorated because there wasn't really any compelling interest to keep them going.

In addition, on the island where I was raised, Snake Island, which is part of the reserve, there were still remnants of foundations of early structures that were built in

the first two decades of the 1800s by missionaries who came to Snake Island to help to "civilize" my ancestors. It's unfortunate that very little effort has been made to preserve those structures.

As a final point, as a young adult, I became aware that our geography was very important historically because, in nearby Sutton, Mazo de la Roche and Stephen Leacock, arguably two great Canadian writers—are buried in the graveyard near Sutton. That was of some historical significance that wasn't lost on me.

So I have a regard and an affinity for the heritage of this province, as well as for the history and heritage of Canada.

In addition to that affinity, I have, since the early 1970s, served on a number of boards, both aboriginal and non-aboriginal, including being a member of the Heritage Trust board and serving as a governor for Trent University.

I'll stop there. I welcome your questions and I look forward to answering them. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Mr. McCue. I just failed to mention that you're nominated as vice-chair of the Ontario Heritage Trust.

We'll start with the third party. You will have nine minutes.

**Mr. Peter Tabuns:** Thank you, Chair. Good to see you this morning, Mr. McCue.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Tabuns, sorry. I just wanted to get your name.

**Mr. Peter Tabuns:** I figured the record would, in the end, be cleared up, so I wasn't that worried.

I've dealt with a number of heritage issues—people coming forward to me about preserving buildings—and these always seem to be fairly contentious issues. What do you think the biggest challenges are that we face preserving our heritage in this province?

**Mr. Harvey McCue:** To my mind, the biggest challenge is persuading Ontarians that this is important. Notwithstanding the interest of some people to show an interest in heritage by seeking designations or by supporting designations, my sense, in the two years that I've been on the board is that it's a real challenge persuading and convincing the general public in Ontario that heritage matters.

**Mr. Peter Tabuns:** Do you see how the trust could, in fact, bring about that change and understanding? Are there tools that are available to the trust that could make a difference?

**Mr. Harvey McCue:** Yes. The short answer is yes. The board and the staff—and it's a very professional and competent staff. As you might predict, we're all committed to that objective. Given the talent and the experience of my colleagues on the board combined with the professional experience and knowledge of the staff, I'm confident that both in the short and the long term, the trust will be able to accomplish that objective.

We're keenly aware that information technology is going to be a vital tool in spreading the information about the trust and the importance of heritage to the Ontario



population. The staff and the board are actively searching how to use information technology to help us achieve that objective.

**Mr. Peter Tabuns:** What are the projects that you want to do or carry forward as vice-chair of the trust?

**Mr. Harvey McCue:** I don't have pet projects, per se—

**Mr. Peter Tabuns:** Even if they're not pet projects. Are there priorities, things that you, in your role, want to focus on?

**Mr. Harvey McCue:** Well, the very obvious thing is I want to apprise the aboriginal population of Ontario of the importance of heritage and of the work of the trust. I believe that there need to be bridges built. I think my people need to be encouraged, as well as other Ontarians, to recognize the importance of heritage matters. So that's one particular element that I will be focussing on.

**Mr. Peter Tabuns:** And have you, in the last while, spent time trying to promote that? Have you been reaching out into the aboriginal community on that issue? Can you tell us what you've done and what the results of those actions have been?

**Mr. Harvey McCue:** I've been working with the staff of the trust. The staff is charged with carrying out the operations of the trust, and I have been advising the trust staff on a variety of matters pertaining to either aboriginal issues or the aboriginal population. I will continue to do that.

**Mr. Peter Tabuns:** I would say, from what you've presented to us so far, the competence, the ability of the staff is one of the greatest assets that the trust has. What are the weaknesses? You've been on the trust, now, for a little while. What are the things that are going to have to be addressed for the trust to carry forward?

**Mr. Harvey McCue:** Well, the elephant in the room these days for any agency, of course, is money. Quite frankly, that's a major challenge that the trust faces, and we will have to use all of the talent and the experience that's on the board to address and mitigate that challenge. But that's the number one issue.

**Mr. Peter Tabuns:** Okay. Have you engaged in partnerships with other bodies to try to preserve buildings? I'll give an example: In my riding, I have a variety of churches that no longer have the size of congregation necessary to support them. The buildings are spectacular. They're part of our heritage. I've met with representatives from different church groups to talk about how their buildings or at least the form of the buildings can be preserved. Is the trust working with church groups and others to look for innovative ways to preserve what is, really, our architectural heritage?

**Mr. Harvey McCue:** The short answer is yes. There are a disparate number of local boards and agencies that deal with heritage issues in communities and regions. The trust connects with those agencies and committees regularly and co-operates, in my opinion, very, very well with the local agencies to support them in their endeavours.

0940

**Mr. Peter Tabuns:** Okay. Thank you. I don't have any further questions.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. We'll now go to the government. You have four and a half minutes, Ms. Jaczek.

**Ms. Helena Jaczek:** Thank you, Mr. McCue, for reminding us of some of the heritage in York region. I visited Georgina Island and know many of the places you alluded to.

One of the challenges, clearly, that the trust must face is the balance between preserving heritage and the forces of economic development. Could you describe, in your experience, some of those challenges and how you try to achieve a balance between those two values?

**Mr. Harvey McCue:** I wish I could give you a specific answer. As board members, we tend not to get involved in those kinds of day-to-day operational issues. We have a very competent staff that, in our opinion, is able to achieve that balance in a way that I think is to everyone's satisfaction. However, I can refer to a specific issue that will illuminate a response to your question.

There has been an ongoing issue for several months in Ottawa, where I reside, over the Aberdeen Pavilion in Lansdowne Park. The board staff has worked admirably, in my opinion, with the city of Ottawa and the developers to ensure that the economic and civic interests of Lansdowne Park are balanced with the heritage considerations around Aberdeen Pavilion. It was initially a contentious issue, but the trust staff has done an admirable job in working with the various interests in Ottawa to come to, I think, a balanced resolution.

**Ms. Helena Jaczek:** I have just one minute left. Obviously you want to stay on this board. You've been there since 2009, and you want to move to the vice-chair position. What additional responsibilities will you have as vice-chair?

**Mr. Harvey McCue:** As vice-chair, the most likely responsibility will be to stand in for the chair when the chair is absent. I will also serve as a member of the executive committee of the board. I expect that, as vice-chair, the requests from staff and other board members will probably increase beyond what has been the case for the past two years.

**The Vice-Chair (Mr. Phil McNeely):** Thank you for that. The time is up. We'll now go to the official opposition and Mr. McDonell.

**Mr. Jim McDonell:** Thank you for coming out this morning. I've been involved somewhat in some of the heritage of our community, which is eastern Ontario, being somewhat over 200 years, I guess, and one of the earliest places in the province. But the big thing is money, trying to balance the economic development versus finding the money to keep some of these buildings that are now falling down, as you related earlier.

Do you see any hope or where we're going to go with this in the future if we're going to be able to—do you have some of your achievements, maybe, that the board



has accomplished over the last couple of years since you've been there?

**Mr. Harvey McCue:** I'm confident that we will be able, as a board and staff and agency, to deal with the financial issue.

In the matter of local heritage, the trust, as I mentioned earlier, works with local agencies to help them as much as possible in resolving these matters, and that includes giving them advice on fundraising and supporting them in other ways.

The trust really has a coordinating role to play in addressing the heritage issues in Ontario, and I'm confident that we will be able to continue to do that and work with local committees to achieve their objectives.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Pettapiece.

**Mr. Randy Pettapiece:** Yes, thank you. Welcome, this morning. A lot of questions have been asked about the economics and how you're going to help people with the economics end of it when we're still coming out of the back end of a recession, and it's very difficult to do this. There are a couple of projects in Perth county that I've been involved with. One was the Fryfogel Inn along Highway 7/8, and I was also on the board of directors of Stratford Perth Museum. Money seems to be the issue. How do you envision the trust fulfilling its mandate with more limited resources?

**Mr. Harvey McCue:** It won't be easy; there's no question. It will be tough, it will be a challenge, and it will require the staff and the board identifying as many creative and innovative approaches to our mandate as possible, and looking at additional ways to generate revenue and offset the financial crunch. Unfortunately, there isn't a silver bullet. All agencies in the province are up against this particular wall, and we're just going to have to do our very best, with the resources that we have, to come up with new and innovative, creative solutions. It won't be easy, but I'm confident.

**Mr. Randy Pettapiece:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you. Mr. McCue, thank you so much for being here today. Earlier, you referenced the elephant in the room, and by way of our questioning, we're very mindful of that as well, as you can tell. But in terms of drilling down, there are many opportunities for local communities to get involved and support Ontario heritage. Specifically, in your role as vice-chair, how would you facilitate these opportunities for local municipalities and heritage societies to partner specifically with the heritage trust? Do you have any specific ideas or ideas to pursue?

**Mr. Harvey McCue:** I wish I did; I don't. I intend to make myself more available to the trust, to increase the visibility of the trust, to be a presence, as much as my schedule allows and as much as the trust requires, and I'll be encouraging other board members to do the same. I think it's important that we, as board members, try to put a human face on the trust and thereby, through our personal interventions and participation, make Ontarians

more aware of the trust: what it tries to do, what it does do and what its objectives are.

**Ms. Lisa M. Thompson:** Okay. If I may, just very quickly: With regard to the heritage trust, in your strategic plan or vision, do you have some specific actionables to engage local municipalities or heritage groups that we could review?

**Mr. Harvey McCue:** Yes, we do. We have quite a mature and developed five-year action plan. I would argue that perhaps the most interesting part of that action plan is focusing on youth. If you are interested, the staff would be very happy to provide you with the activities that we've identified to engage the youth of the province.

**Ms. Lisa M. Thompson:** Thank you so much, Mr. McCue. I'd like that.

**The Vice-Chair (Mr. Phil McNeely):** You still have further time. Any further questions? Mr. McDonell.

**Mr. Jim McDonell:** One thing that has come up in the last little while, and I guess with the First Nations being here for God only knows how long—

**Mr. Harvey McCue:** A long time.

**Mr. Jim McDonell:** —and the European settlers coming over, haphazardly, as people are building a house or a development and they come across a gravesite of some kind—right now, it's thrown back to whoever is there to do the investigations and the digs to find out just how extensive it is: Is it just a single gravesite of somebody that was buried or is it more extensive?

Do you see there needing to be some help in whoever comes across these to—I guess it's all about heritage—help them with these digs? Do you see the role of the heritage trust giving some advice, that maybe they should take a greater role in this? Because I think what's happening now is that if you happen to come across something like that, you might as well just hide it because it's a huge financial burden to whoever happens to find one.

**Mr. Harvey McCue:** Yes. The trust currently is actively involved in several ossuaries in the province; a couple not too far from Toronto. So the staff and the board have experience in working with property owners and municipalities in protecting those sites. So there is a good record by the trust in this particular area. Part of the challenge is just bringing this information to individual property owners when something like this is discovered. But yes, the trust can and does work with individuals and with municipalities on these matters.

**Mr. Jim McDonell:** Just further: So do you feel, from a heritage trust point of view, that it's the responsibility of the property owner who happens upon it to take on the financial responsibility or is that something that should be borne more by the greater public? What would the recommendations of the trust be on something like that?

**Mr. Harvey McCue:** That's a tough question for a board member to answer.

**Mr. Jim McDonell:** Can you provide any guidance back to the minister?

**Mr. Harvey McCue:** Certainly the trust does provide advice and guidance as part of its mandate in these sorts of matters.



As to the financial implications of where the burden should lie, it's something that the staff would have to look at because of our financial constraints. We'd obviously like to assist in every case, but we just can't do that. So there are concerns that the staff has to examine before any kind of decision can be made with respect to providing financial support.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Mr. McCue. Time is up, but thank you.

We'll now recess until 10 o'clock, waiting for the third person to come in today. So we're recessed until 10.

*The committee recessed from 0953 to 1005.*

#### MS. ELAINE ROPER

Review of intended appointment, selected by official opposition party: Elaine Roper, intended appointee as member, the Royal Ontario Museum.

**The Vice-Chair (Mr. Phil McNeely):** If we could all take our seats. We have Elaine Roper, nominated as a member of the Royal Ontario Museum.

Ms. Roper, you may begin with a brief statement, if you wish. Upon conclusion, the government will have the remainder of your 10 minutes and the opposition and third party will have nine minutes. You may begin your statement. Thank you.

**Ms. Elaine Roper:** Thank you very much. My apologies for being delayed.

I am a human resources professional who has over 30 years' experience in business. I started out my career in financial services and had many years there. I worked then in a consulting firm which I started, Think Company Inc., for over 10 years and had clients such as MaRS Discovery District, Ontario Centres of Excellence and Health Technology Exchange, and am now working at the Pan Am Games, heading their human resources and workforce initiative.

I have been a member and volunteer on numerous boards for over a dozen years and have lent my leadership experience at the board level to organizations such as the Heart and Stroke Foundation of Ontario. I've been on the board of Bishop's University for over 10 years. I have worked on the board of the Textile Museum and have led the human resources committee for a number of those organizations.

I'm presently chair of the HR committee for Bishop's University. I served three terms as the chair of the board development committee of the Heart and Stroke Foundation, which has human resources accountability. I've also worked on the Textile Museum—was on the governance board development committee that had accountability for human resources, and we were involved in restructuring the board while I was on that board.

In my current role, I am responsible for all of the human resource workforce strategy for the Pam Am Games, which includes all of the full-time staff and also the formation of the volunteer contingent, which will number between 15,000 and 20,000. So I'm involved in developing all of the strategy and then, ultimately, the

implementation of the operational planning for that whole volunteer segment.

So I feel that I bring the qualifications to the table to step into the role that I've been asked to assume.

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much. Is that the end of your introduction?

**Ms. Elaine Roper:** Yes.

**The Vice-Chair (Mr. Phil McNeely):** We'll go to the government and Ms. Jaczek.

**Ms. Helena Jaczek:** Thank you for being so succinct. It's wonderful.

Obviously the ROM is a very important cultural and tourist attraction here in Ontario. What motivated you particularly to apply for board membership at the ROM?

**Ms. Elaine Roper:** Good question. Thank you. I have been a member of the ROM for a number of years. It's an institution in this city. I've been through the museum many, many times. I was honoured when I was approached to join the board, and feel that I can bring all of my expertise in the field, but also the interest that I have in the museum. I think it's a fantastic institution. It has been interesting to see it evolve over time, and I think it plays a very major role. I'd be very honoured to serve and bring my expertise to bear.

**Ms. Helena Jaczek:** As you've been a member of the ROM, are there any ideas that you have in particular in making the ROM perhaps more accessible, more visible? Do you have a particular vision that you're going to be bringing to the board?

**Ms. Elaine Roper:** I think I have a lot to learn. Having served on the board of the Textile Museum—it's a very, very small museum by contrast with the ROM, but I think they're doing some very innovative things. They were recognized, actually, for their website and the unique stuff they were doing with their website. So I think that may be an opportunity to reach some new audiences.

#### 1010

I think trying to draw in a younger group—I mean, a lot of people discover the ROM as children when they go in to see the dinosaur exhibit, because I think every child in Toronto at some point has gone through that. But I think if there's a way that one can attract younger people, youth—because that's when you really start to discover these institutions and they become part of the habit of something that you would return to. So I think that's something, some initiatives in that respect.

I think, too, that it is a tourist attraction. I know that they have recently lowered their entrance fees to try to draw more people in, but I think there are some international cities, such as Paris, where you can buy a museum pass and you can get into any museum in the city.

So I think there are some innovative things, not necessarily in Toronto but globally, that can be brought to bear to raise the profile of the museum.

**The Vice-Chair (Mr. Phil McNeely):** Thank you for that. The time is up. I will go to the opposition and Mr. Jackson.



**Mr. Rod Jackson:** Ms. Roper, thank you for coming today, and I note on your resumé that we share the same alma mater on the mighty Massihippi shore. It's always a pleasure to see someone from Bishop's. Welcome, and thanks for coming.

As you know, the mantra for TO2015 is "On time and on budget." We hear that a lot. However, over the past few years, although the budget and timeline have obviously changed fairly dramatically, we haven't seen any new update released over the past couple of years.

Transparency and protecting public interests are going to be instrumental in this appointment, as you know and I'm sure you're aware. Can you please tell me what you did as a member of the TO2015 committee to stand up for taxpayers, to protect their earnings against the waste and lack of transparency that we've seen in the Pan Am planning process?

**Ms Elaine Roper:** I think that there is a fair bit of information available. If you go on our website, we have a lot of our venue strategy laid out there. In fact, we hope to make announcements about a number of the venues, and there are some venues that we have come out about. I think there is, in fact, a great deal that has gone on, and I can say that we are very much on budget and very much on time with our initiatives; that as we are funded by two levels of government and also very active with the city, we have to align all of our partners when we do make communications.

We have nothing to hide. We are very much on track. A lot of the reports in the media about being overspent are factually inaccurate. In fact, we're very much on plan, and we hope to be able to communicate more often, working with our partners to make those communications.

**Mr. Rod Jackson:** I would hope so, too. I mean, actions speak louder than words. To date, although we hear "On time and on budget" and that there isn't a lack of transparency, we still don't see any evidence of transparency. If everything is on time and on budget and you're not hiding it, then why is it being hidden? These are critical things that we need to bring to the boards when we serve the public. I would hope that, in this position, you would see that through and actually stick more to the actions rather than the words of "On time and on budget," and make sure that the public interests are indeed being taken care of. If they are, then you have nothing to hide, and we'd like to see it.

I think the same goes with the ROM. This is something that's in the public trust. Can you tell us what you would do to make sure that there is transparency and responsibility brought to your new position when you come to it? What will you do specifically to ensure that?

**Ms. Elaine Roper:** If I can step back for a moment on the Pan Am Games, I think there's actually a fair bit of information on the website, and there are actually a number of releases that we have made.

In respect to the ROM, I would have to come up to speed. As I am not yet appointed, I would have to really come up to speed on what a number of those initiatives

are. I have a track record of being very open and sharing information. In fact, we had an HR committee meeting yesterday, shared a lot of our planning on where we're at with all of our plans vis-à-vis the games. I would take the same approach with respect to the ROM, and that's very much the approach that I take with the HR committees that I serve on as chair and have served on.

**Mr. Rod Jackson:** Okay. So throughout my research on Pan Am, as well, I've noticed a pervasive Liberal connection at every level. It starts with former Premier Peterson, who is on the bid committee, the chair of the bid committee. He's also connected to the equestrian venue and the aquatic centre, where he's chancellor. Roger Garland is personally generous to the Liberal Party in a partisan way, donating \$12,655 since 2003.

Can you tell me specifically what your connection to the Liberal Party is and why we should see this ROM position as anything more than another patronage appointment, as we've seen through the Pan Am process?

**Ms. Elaine Roper:** I have no political affiliation. The last time I was a member of the Liberal Party was in the 1970s in Quebec, before the first referendum, and I've had no political affiliation since then. This is purely a position that I would be honoured to take on because I think it's a very reputable, distinctive institution, and I think that I have something to offer that organization. So that's my motivation, pure and simple.

**Mr. Rod Jackson:** Excellent. Thank you very much. I appreciate that.

**The Vice-Chair (Mr. Phil McNeely):** If that's the end of your questions, we'll go now to the third party. Mr. Tabuns.

**Mr. Peter Tabuns:** Ms. Roper, good morning. The first question is, how are you going to balance all this? I mean, over the next four years, my expectation is that you will become busier and busier. Do you feel that you're going to have the time to actually contribute what you need to contribute at the ROM?

**Ms. Elaine Roper:** That's a good question. I take my board work very, very seriously, and I don't take on board work if I don't think I can deal with it. I complete my term with Bishop's University in June of next year. At that point, I have no other board commitments, so I will have the Pan Am Games. I have to say I'm building a very solid and exceptional team of people, and I'm someone who really relies on my team, and I know that I have the support both of my chair and of the CEO in taking on this appointment. If I didn't think I could do this and balance this, I wouldn't do it.

I've spoken with Janet Carding about the time commitment. I know there are four board meetings a year and that the HR function is being run very well. Obviously, they have some challenges, but it's being run very well. So unlike some of the other boards I've sat on in the past, in the middle of turnarounds or trying to revitalize organizations, this is not an organization that's in that state.

**Mr. Peter Tabuns:** Okay. With regard to the ROM, are there one or two things that you particularly want to see carried through if you're appointed to that board?

**Ms. Elaine Roper:** I understand there are some challenges with the pension, as there are with many pension funds across the country. In fact, we have that very issue at Bishop's University. It's something that we're working through, so I have experience with that.

But I think in terms of client service and really—I know that they have a new strategic plan that they're working on at the ROM and that the whole notion of change management and trying to really bring people along and fire them up is something that is an initiative, and I think that's something I could bring a lot of experience to bear on.

I've done a lot of change management in my time, and I believe passionately, also, in client service, and that's something that I would hope through the Pan Am Games that our staff and our volunteers would bring. I've always had a very good experience at the ROM, but I think that's something that we can always do much better.

**Mr. Peter Tabuns:** When you talk about change management and about client services, what exactly is the problem that you see now and what vision do you have for the end point of that change that you're interested in managing?

**Ms. Elaine Roper:** I don't see a problem, but I think there are—and there are a lot of very enthusiastic volunteers at the ROM, absolutely. But I think that, looking ahead as a city—and I have done a lot of travelling in my time; I travel extensively—we can do more. As a passionate advocate for the Pan Am Games and for all of the tourism that will bring to the city, I think Toronto still has—and ROM as one institution—a lot more we can do to be very welcoming, embracing, bring people in, draw people in and have that as a hallmark of the city.

So I think that this institution, along with many others, has some work to do on that. It's a marvellous institution, and it's one with a very long history, but I think you have to keep reinventing yourself to be relevant and to draw in new groups of people and be meaningful to new groups of people, especially our young people.

**Mr. Peter Tabuns:** Thank you. I have no further questions, Mr. Chair.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Mr. Tabuns, and thank you, Ms. Roper, for being here

this morning. You may take your seat at the back, if you wish.

We will now consider the concurrence of the intended appointment of Martin Forget, nominated as member of the Council of the College of Physicians and Surgeons of Ontario.

**Ms. Helena Jaczek:** I move concurrence in the intended appointment of Martin Forget.

**The Vice-Chair (Mr. Phil McNeely):** Any discussion?

Seeing none, all in favour? Opposed? Carried.

We will now consider the concurrence in the intended appointment of Harvey McCue, nominated as vice-chair of the Ontario Heritage Trust.

**Ms. Helena Jaczek:** I move concurrence in the intended appointment of Harvey McCue.

**The Vice-Chair (Mr. Phil McNeely):** Any discussion?

All in favour? Opposed? Thank you. The motion is carried.

We'll now consider the concurrence in the intended appointment of Elaine Roper, nominated as member of the Royal Ontario Museum.

**Ms. Helena Jaczek:** I move concurrence in the intended appointment of Elaine Roper.

**The Vice-Chair (Mr. Phil McNeely):** Any discussion?

**Ms. Helena Jaczek:** Yes. Just in view of some of the comments made by Mr. Jackson, I'd like to point out to members of the committee that there is no remuneration with this particular appointment. I am confident that Ms. Roper intends to simply give her expertise in the public's best interest. I feel we're really fortunate, in fact, to have her, that she will have the time and devotion to this particular task.

**The Vice-Chair (Mr. Phil McNeely):** Any further discussion?

Seeing none, all in favour of the appointment? Opposed? The motion is carried.

Thank you very much for your participation this morning. This meeting of the Standing Committee on Government Agencies is adjourned.

*The committee adjourned at 1023.*











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## **Assemblée législative de l'Ontario**

Première session, 40<sup>e</sup> législature

# **Official Report of Debates (Hansard)**

**Tuesday 27 March 2012**

# **Journal des débats (Hansard)**

**Mardi 27 mars 2012**

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**Intended appointments**

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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES  
ORGANISMES GOUVERNEMENTAUX

Tuesday 27 March 2012

Mardi 27 mars 2012

*The committee met at 0900 in committee room 1.*

## INTENDED APPOINTMENTS

## MR. TED CALLAGHAN

Review of intended appointment, selected by official opposition party: Ted Callaghan, intended appointee as member, Council of the Royal College of Dental Surgeons of Ontario.

**The Chair (Mr. Bill Mauro):** Good morning, everybody. Welcome to the Standing Committee on Government Agencies. We have two intended appointments this morning, the first being Mr. Ted Callaghan, member, Council of the Royal College of Dental Surgeons of Ontario. Is Mr. Callaghan here? Mr. Callaghan, please come forward.

Mr. Callaghan is nominated as a member, Council of the Royal College of Dental Surgeons of Ontario. He'll begin with a brief statement, if he wishes.

Any time used for your statement, Mr. Callaghan, will be deducted from the government's time for questions. Each party will then have 10 minutes to ask you questions. Questioning will start with the official opposition. We'll open the floor and ask you to make your presentation. Thank you very much for being here this morning.

**Mr. Ted Callaghan:** Mr. Chair, thank you very much and to the committee members. I want to thank you for this opportunity to come here today to get consent for this possible appointment to the Royal College of Dental Surgeons of Ontario.

Just a brief introduction of myself—I'll probably speak for about four or five minutes today. First off, what brought me here to this chair today is, back in 1969, I became a Maritimes boy that moved to Sudbury and got hired on at what at that time was International Nickel. I became employed with them. I finished a career with them in 2009; I worked 40 years at Inco. During that time, I also became very involved with the community, especially in my 30s. At 33 or 34 I started to become really involved in the community; I belonged to the Lions Club for over 10 years. I used to write letters to the editor. So I became very involved in the community.

I was approached in 1991 to run for council. I ran for city council in 1991 and I lost that particular race by 69 votes. I didn't make the same mistakes in the next campaign in 1994, and I got elected and served five consecutive terms for 16 years on city council, which

resulted from four elections and one acclamation. Just bringing that to this particular committee that I'm looking for this morning, when you serve on council you generate a lot of knowledge related to how to deal with people, how to arrive at consensus. You learn how to really get along with people and be recognized in the community. I became a very recognized person in the community. As you all know as politicians here today, the longer you serve on council, or in this position here, it's not a part-time job anymore; it's a full-time job, because you're well known in the community and all across the wards people call you and talk to you and all the rest of it. So I have that vast experience related to that.

Today, I know that you were given, I'm sure, a copy of my resumé. You'll notice in my resumé that I served in various committees at various levels for the 16 years I was on council. For eight years I served as budget chair, for example, which requires all kinds of stickhandling, consensus, talking to people, lowering expectations and all the stuff that's associated. But also, when you look at my resumé you'll see that I chaired many committees, vice-chaired many committees and have been active in many committees when you consider that I was elected as a part-time councillor.

Also, I'd like you to notice in my resumé that I've served on outside boards. I served the Sudbury and District Health Unit for four years. I was involved with a children's aid society for over 10 years—actually, from 1997 to 2010. I served as chair and vice-chair of the property committee. I was the chair of the property committee when we had to go out and get a new location on Manitoulin Island, get another building; I was involved in that process. I was also involved with NORCAT, which is the Northern Centre for Advanced Technology—I was on that particular board from 2001 to 2010.

Once again, these sorts of experiences really prepare me to come here today and now to just take a few minutes and just talk about this particular position that I'm applying for.

I understand that what I'm here for today is to be a public member of this committee, and in reviewing some of the college materials, I know that public members—of course, as you all know, I know I don't have to tell you I'm not a dentist, and as a public member of this committee I won't pretend to be a dentist. But when you read one of the clauses related to public appointees, it



talks about how their responsibility is to speak for the public. They play a vital part in the college's work at the council and on committees. The full involvement of public members is central to the college's desire for inclusiveness and accountability. Of course, they want both because the dental college is a self-regulatory agency, so they need this outside influence, this outside direction. My experience on council has provided me with that.

Also in my review of some of the material that I read regarding the council was the committees. Some of the committees, I believe, are a good fit for me. I'll fit into these committees. They have audit committees. They have the finance property and finance committee. They have a quality assurance committee. They have a fitness-for-practice patient relations committee. So these are committees where I feel I can bring my knowledge as an elected official in working with people, arriving to consensus related to any issues that I may have to deal with as I do my duties in this particular committee.

Mr. Chair, with that, I just want to sum up and hope that you'll have the opportunity today to really take a serious look at me as a candidate for this. I appreciate all the support I'm sure I will get here today. With that, Mr. Chair, I'll turn it over to you.

**The Chair (Mr. Bill Mauro):** Mr. Callaghan, thank you very much. We'll begin with the official opposition: Mr. McDonell.

**Mr. Jim McDonell:** Welcome to the meeting today. I was just looking through your work-related and council-related background and how you see it relating to this committee and the dental surgeons. As well, you talked about your finance committee and being a good fit there. Just how or what experience do you have in that and how do you see that fitting with this group?

**Mr. Ted Callaghan:** Well, as I mentioned in my presentation, when you talk about a committee like this, what's most important in a committee like this is to be able work with people and to understand the issues. I know that I certainly don't understand all the issues associated with this particular council, but I do know that there's orientation training. There is ongoing training related to this particular assignment, so I will of course partake in all of that. And I believe that one of the most important things is to be able to talk to people, to work with people and to resolve issues, understand issues, and to understand, once again, that I'm not a dentist, but that a majority of the committees related to this appointment are really dealing with patient issues, dealing with a doctor's issue if one of them gets into jackpot, I guess you've got to deal with that, unfortunately. But this is the sort of area where I feel I have the knowledge, the skill and the ability to work with my council members to resolve issues.

**The Chair (Mr. Bill Mauro):** Mr. Pettapiece?

**Mr. Randy Pettapiece:** Yes, thank you. Good morning. By the way, you're looking at a Lions member here, so that was a good club you were into.

**Mr. Ted Callaghan:** Garson Lions Club. I just loved it. Great place.

**Mr. Randy Pettapiece:** Anyway, I see you were on council for 16 years in the city of Sudbury and you were chair of the budget committee. As you are aware, this province is facing a very terrible debt load and deficit right now. What would you consider your greatest achievement in those positions on the budget committee?

**Mr. Ted Callaghan:** When I first got elected to Sudbury council, of course, it was a two-tier government. I was budget chair for the city of Sudbury, and then I sat on regional council. Then in 2000, it became a single-tier municipality, and the majority of my budget stuff was during that.

We had many challenges. After amalgamation, of course, we went through a process that was essentially tippy-turvy for the community, and there was never enough money to do anything. After the transition board made some decisions, of course, and after you got going in reality, a lot of it didn't work and a lot of it was related to finance issues and an understanding of moving money around.

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So my ability, I feel, and some of the most important things I did related to that, was getting through this process of amalgamation and explaining to not only the public but my council colleagues the need to rein in expectations. Of course, in Sudbury, we're always facing financial issues, as a northern community.

So working with my colleagues—and I believe that every colleague I've dealt with, they'll all say that I worked hard on that particular job and I made sure that when stuff came to council related to the finance committee, that it was well-vetted, that all the councillors walked away with an understanding. But, most importantly, when the vote came—I can only think of one vote in my eight years where there was not a full consensus on the passing of the budget.

**Mr. Randy Pettapiece:** Thank you.

**The Chair (Mr. Bill Mauro):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you for being here, Mr. Callaghan.

**Mr. Ted Callaghan:** Thank you.

**Ms. Lisa M. Thompson:** The council that you'll be appointed to has jurisdiction over safety and standards. In doing our due diligence, it came to light that in 2002 your company, unfortunately, experienced a tragedy. I'm curious to know, what have you learned from that experience and what from that experience can you bring to the council?

**Mr. Ted Callaghan:** Well, you know, that was a tragic experience. Of course, I want the committee members to know that this was a long and drawn-out process. It was almost two to three years.

The court time was 19 days of fishing—what Judge Fitzgerald called a fishing expedition—trying to lay blame. I think the committee should know that there were five charges; two of them were against me, which, of course, were dismissed outright. The other three were



appealed. The ministry appealed them, but they never got to court; it never went anywhere.

But what I learned from this, of course, was—first off, I lost a real good friend. Brian Laughlin was a friend of mine. He had more knowledge of the job he was doing that day than I did because he had been there longer. I had only been at the plant for four or five years. So he had more knowledge.

This was an unfortunate workplace accident. It just goes to show you what the old saying is: Accidents can happen. Or a better saying is, shit happens.

In this case, that's exactly what happened here. It was an unfortunate accident. I lost a good friend.

But of course, in the community, on Facebook, anytime you're a member of council or anything like that, you're going to get people saying that I should have done this and I should have done that.

But I feel perfectly clear in my conscience about that particular day, and so did the court of law. I believe that it was an unfortunate accident. It's something that I wish I hadn't been involved in, but I was. I came out of the other end of it just as strong. I kept my job. I kept working for another eight years after that. But accidents do happen, and it's unfortunate.

**Ms. Lisa M. Thompson:** Absolutely.

Then, from that experience, what kind of conviction—what can you offer the council in terms of safety and standards?

**Mr. Ted Callaghan:** I think that on safety and standards—I believe what's most important is that you have to follow the rules. There are rules for everything. Rules are not made to be broken; they're made to be followed. I believe that if people want to stay out of trouble, then you really need to follow professional rules.

I know that the college, from reading their material, has high expectations related to standards for the profession and that they seem to be constantly at work ensuring that these are followed, that they're updated and that they in fact work for the profession. So I will, of course, support those efforts with my colleagues and ensure that people don't go off the rails or go off track related to enforcing the rules and regulations associated with this council.

**Ms. Lisa M. Thompson:** Okay, thank you very much. I appreciate your response.

**The Chair (Mr. Bill Mauro):** Are there any other questions from the official opposition? Okay. We'll move over to the NDP, Mr. Tabuns.

**Mr. Peter Tabuns:** Thank you, Mr. Chair. Mr. Callaghan, good morning. Thank you for being here.

**Mr. Ted Callaghan:** Good morning.

**Mr. Peter Tabuns:** The college and the community of dental surgeons: What do you see are the biggest challenges facing them in the next few years?

**Mr. Ted Callaghan:** Well, from reading material and from the knowledge that I've gathered from reading materials, I'm not in a position today to say what needs to be changed. I have no plans on walking in there and telling them that they've got to do this and they've got to

do that. I'm willing to go there and to learn, during the orientation and during the training, what's going on there and to understand all the rules and regs and all the various aspects of this particular position, and then to work with my committee members to ensure that, like I said, the rules are followed and to do the best job I can to ensure that this council does the best for the citizens of Ontario.

**Mr. Peter Tabuns:** I understand that you're not going to go in there and tell people what they should or shouldn't be doing right off the bat, but are there any goals or priorities that you have that you want to bring into this particular college?

**Mr. Ted Callaghan:** I have to be honest: at the present time, no. I have no understanding that there are shortfalls or that things need to be done there or that there's something that's got to be changed. I'm certainly not immune to speaking up if I see there's an issue. I'm recognized in the community as someone that speaks up if I see something that should be changed.

**Mr. Peter Tabuns:** No one is ever going to get wealthy from one of these appointments, so what is it that you're—let's face facts. What is it that you're looking to get from participation in this college?

**Mr. Ted Callaghan:** After you serve 16 years on a council, it's the old adage of: You like to keep the oar in the water.

A good friend of mine—some of you may know him—Jim Gordon, who was a former mayor of Sudbury, whom I worked under, suggested that I should try to get an appointment at this level, so I started searching around and looking. This is not the first appointment that I've tried for. I tried for one other appointment before this. I did an interview in April for a LHIN position. I did a long, extensive interview—over an hour—for the LHIN position. Of course, I didn't get the position, but I did a post-interview and I talked with a very nice gentleman at the Ministry of Health who called me up and encouraged me to continue on.

I did a project for a friend after that April meeting for about five months—a business friend of mine—that he asked me to help him with. Then I started looking online again and I spotted this particular committee and I thought it would fit into my area of expertise because I'll tell you that the area that really I enjoyed the most on council was the health and social services committee. Pioneer Manor, which is a long-term care facility in Sudbury—I was involved with that. Back in the former region of Sudbury when we had two-tier government, I was on the health and social services committee for all the time that I was there until the amalgamation and those committees were dissolved. So that's why I'm here today applying for this position.

**Mr. Peter Tabuns:** And is there a particular committee at the college that you want to be part of?

**Mr. Ted Callaghan:** The audit, the finance, patient relations—I would like to be involved in the financial ones. Also, anything to do with the public. I enjoy the public. I enjoy doing things, talking to people and listen-



ing to people. So those are the areas, really, that I hope to get involved in.

**Mr. Peter Tabuns:** Have you had an opportunity to look at the financial statements of the college?

*Interjection.*

**Mr. Peter Tabuns:** I don't have any further questions. I appreciate your answering my questions as generously as you have.

**Mr. Ted Callaghan:** Thank you.

**The Chair (Mr. Bill Mauro):** Okay, thank you very much. The government has four minutes, if they're interested.

**Ms. Helena Jaczek:** Thank you, Mr. Callaghan, for coming and giving us a very comprehensive overview of your experience. Your candour is refreshing and in fact we have no questions.

**Mrs. Donna H. Cansfield:** I do.

*Laughter.*

**Mrs. Donna H. Cansfield:** I'm sorry; I do have a question. First of all, I want to say thank you, as well, for coming in. I do appreciate your candour. I think that it's refreshing. It shows that there are going to be some fresh eyes to look at things from a different perspective, and that's particularly important when you're dealing with a regulated profession. So I thank you for that.

0920

I appreciate your issue around the budget because that's your particular expertise. I wondered if you couldn't do—you know, that was a part of it. There's a very interesting committee on here, which is the professional liabilities committee. If you look at it, it's had a significant increase in the issue of professional liability or malpractice claims that have gone up—in 2010, more than 1,500 potential claims as reported from 875 in 2001.

I was just curious as to whether or not you felt your expertise in dealing not only with people but looking at conflict resolution and the challenges you've had as a member of the Sudbury council would be of some support in that particular committee.

**Mr. Ted Callaghan:** That looks like an interesting committee, and I don't see any public appointees on there. Maybe there are, but I don't recognize any of the people there as public appointees. That sounds like an interesting committee. Actually, I didn't recognize that committee for what it is. It certainly looks interesting, and it also sounds interesting. The numbers actually are a little bit startling. I'm surprised by the numbers there.

**Mrs. Donna H. Cansfield:** They are.

The last question or comment I have for you is just to say again thank you for picking this particular one. I suspect every time you go to a cocktail party, somebody's going to be very interested in the fact that you actually chose dentistry, since most people are afraid of their dentist. So thank you again for coming.

**Mr. Ted Callaghan:** You're welcome. Thank you.

**The Chair (Mr. Bill Mauro):** Mr. Callaghan, thank you very much for your presentation. We appreciate it.

**Mr. Ted Callaghan:** Once again, thank you very much, Mr. Chair, and to the committee members, thank you.

MS. MARIE MOLINER

Review of intended appointment, selected by official opposition party: Marie Moliner, intended appointee as member, Toronto Police Services Board.

**The Chair (Mr. Bill Mauro):** Okay, committee, we now have Marie Moliner, nominated as a member of the Toronto Police Services Board.

Ms. Moliner, please come forward.

**Ms. Marie Moliner:** Good morning. Do you mind if I get a glass of water?

**The Chair (Mr. Bill Mauro):** Please.

Ms. Moliner, you may begin with a brief statement, if you wish. Any time used for your statement will be deducted from the government's time for questions. Following that, each party will then have 10 minutes to ask you questions, and questioning will begin with the third party. We'll open the floor and ask you to make your presentation, and thank you very much for being here this morning.

**Ms. Marie Moliner:** Thank you very much. Bonjour, tout le monde. Good morning, everybody. It's really an honour to be before you today.

I have applied to be a member of the Toronto Police Services Board because I really care deeply about this city and I believe that serving on the board would be a privilege, a unique opportunity and a significant responsibility.

I'm going to share a little bit of information about myself with you this morning that I hope establishes my credentials for this position. I've organized the information into three areas: personal, professional and community involvement.

Turning to the personal, I'm the daughter of immigrants. My father was born in Spain. My mother was born in Ireland. They met in Montreal and settled in the eastern townships in Quebec, and I'm the eldest of four children. But perhaps what's most significant about my parents' background is their very divergent views on policing.

My father fled Spain, fled Franco's fascist regime, and raised us to never make eye contact with the police when we were travelling in Spain. My mother, on the other hand, grew up in Ireland and she raised us to turn to the bobbies at every occasion, should we ever need them. I like to think that that has given me a unique perspective on policing.

I'm happily married to Kevin Whitaker, my partner of 30 years. Together, we've lived at Jane and Finch, Parkdale and now reside in High Park. We have two children, teenagers. We've worked hard to make them conscious of their privilege and to give back to their communities.

As a resident of Toronto and as a parent of a teenaged son, I have had encounters with police officers, and I have to say that on every single one of those encounters,



I have found them to be exceptionally professional and service-oriented.

Turning now to the professional, I'm a lawyer by training. I am a proud career civil servant, and I'll talk to you a little bit about my job at the government of Canada shortly. Perhaps it is because of my parents' mixed views on the administration of justice that I have chosen a career in government.

Before I joined the government of Canada I was counsel to the Canadian Civil Liberties Association. I then worked for the police complaints commission and was counsel to the Clare Lewis task force on race relations and policing. I also worked for the government of Ontario in the Ministry of the Attorney General in the policy development division, focusing mostly on access to justice initiatives. I was elected as a bencher to the Law Society of Upper Canada, which is the governing body that oversees the now 40,000 lawyers in the province. As a bencher, I was the chair of the treasurer's equity advisory committee.

I now work for the government of Canada. For a few years I worked for the Department of Justice, and now I am the regional executive director for a department called Canadian heritage. That department has what some would consider a dog's breakfast of a mandate; we do everything from arts and culture to official languages to sports to youth engagement. I also work with off-reserve aboriginal populations and focus on what the government of Canada calls the area of Canadian identity. In that capacity, I administer an office of about 70 employees—we're getting smaller everyday—and oversee a funding budget of about \$25 million. I'm also the past chair of the Ontario federal council, which is an informal governing body for senior federal officials in the region, in the GTA.

In terms of how I like to work, I'm seen, I hope, as collaborative and creative. I'm especially proud of the work that my team has accomplished in two particular areas: streamlining our funding processes and policy work that I have led locally in engaging youth through culture to focus on youth engagement as a crime prevention strategy.

In this role, I've worked across all levels of government on a range of issues. Municipally, I've worked with other funding colleagues to focus on ways to make funding streams more navigable to applicants. I've championed investments to engage youth in the arts and have spoken internationally on the role of arts and culture in engaging youth. In the past, I've been the representative on the mayor's community safety panel, which was chaired by former Chief Justice Roy McMurtry.

Throughout all of my work, I've tried to apply an inclusive lens to the decision-making processes and the way that decisions are brought forward. I've always sought to involve communities and community groups in this work.

Turning now to my community involvement, I'm actively involved in the city of Toronto, a city I'm proud to call home although I was born in Montreal—which no one would argue has better bagels, and we won't discuss

the hockey team. As a volunteer, I have participated in several city-building initiatives. I'm a member of the steering committee of civic action, which is formally the Toronto City Summit Alliance, which is currently chaired by John Tory. I'm also involved actively in the DiverseCity Fellows, which is a kind of sister organization co-chaired by Ratna Omidvar and John Tory.

Last December, I was invited to join the Centre for Social Innovation's board. CSI is a not-for-profit group which focuses on incubators for small start-up organizations, really focusing on entrepreneurship for organizations that have a social mission.

For almost 10 years, I was on the board of the United Way of Toronto, and was on the campaign cabinet as well as the board of trustees. I've participated in TRIEC, the Toronto Region Immigrant Employment Council and I've been past chair of several other community boards, including Parkdale Community Information Centre and the various daycares that my children were involved in.

For the last five years I've been the Ontario federal representative on the Ontario Financial Management Institute.

So as I wrap up, I'll let you know that because we grew up in Quebec, my parents insisted that we learned to speak French. Since I work for the government of Canada, I have an opportunity to speak French every day. Donc, je suis complètement bilingue dans les deux langues officielles. I'm completely bilingual in both English and French, and I also like to speak Spanish, my father's original language, whenever I can.

0930

Almost done: Lastly, I'll say that my personal and professional experience with policing and police officers is that leadership truly matters. I'm a long-time public servant, and I have deep respect and admiration for all of us who choose to serve. I know that police officers, like all public servants, take great pride in doing their jobs well.

Being considered for this appointment is a privilege, and it's a challenge that I feel I'm truly prepared for. Merci beaucoup.

**The Chair (Mr. Bill Mauro):** Thank you, Ms. Moliner. There are two minutes left for the government, should you decide to use it. We'll begin with the third party.

**Mr. Peter Tabuns:** Thank you very much for coming this morning and for applying for this position. Can you tell me what you see your role as being on the police services board?

**Ms. Marie Moliner:** As a civil servant—and I'm here because my government department has agreed that I participate—I would really be there for the purpose of learning how policing works in Toronto from the inside. I appreciate that the board does not oversee the day-to-day operations, so it's very much about participating in the overall management and setting of priorities for the board.

**Mr. Peter Tabuns:** Do you have any goals that you want to see fulfilled in your term on this board?



**Ms. Marie Moliner:** I think that there are a number of key issues that the police services board faces, so participating in making sure that all the information is before the board and that the decisions are fully informed would be my main objective. As this point, I don't have any specific agenda items that are of primary importance to me, because I don't really know what the board is focusing on, other than what's in the papers.

**Mr. Peter Tabuns:** What do you think those key issues are that you just cited?

**Ms. Marie Moliner:** Today is budget day for Ontario, and I think it's budget day pretty well for every organization in the country—it will be budget day on Thursday for the government of Canada—so I think budgeting issues are going to be key for all public sector organizations. I think that the key policy issue challenges will be increased public scrutiny for all public sector organizations, including the police. Obviously, the police have faced some recent challenges in terms of issues of racial profiling.

**Mr. Peter Tabuns:** Let's expand on that. What do you see as the problems around racial profiling? Do you see that there has been an inappropriate use of profiling to determine who is a problem? Do you come at it from another lens?

**Ms. Marie Moliner:** I'm not in a position to say whether there has been inappropriate use of racial profiling. I'm not on the board; this is an intended appointment. I think that the courts have found that systemic racism exists across the justice system. In that sense, all the institutions that have interactions with the public have a number of challenges, including how representative they are and how much that representation affects their view of the people they serve. I think the police services face those challenges as well: representation and fully informed decisions.

**Mr. Peter Tabuns:** When we talk about the police services budget, one of the issues that comes up when I talk to colleagues on Toronto city council is the whole question of overtime. Have you thought about that issue and how it needs to be addressed by the police services board?

**Ms. Marie Moliner:** I haven't thought about it in the context of the police services board. I do appreciate that it's a significant cost and that, as with all public sector institutions, salaries are the most significant cost, so looking at ways that one can pay less for services rendered is going to be probably the key focus for the board going forward.

**Mr. Peter Tabuns:** Do you have any questions, colleague? No.

I have no further questions. Thank you. I appreciate it.

**Ms. Marie Moliner:** Thank you.

**The Chair (Mr. Bill Mauro):** Thank you very much. Government side?

**Mrs. Donna H. Cansfield:** Thank you. I would like to thank you as well for putting forth your name for this appointment. Being on a police board is a very public profile. When I look at your resumé and what you have to offer, it's fairly significant, and I just want to say thank

you. It's not an easy appointment to place yourself into, so obviously your love of this city and your willingness to give back in terms of the expertise that you have accumulated over a significant period of time, I believe, if this committee agrees, will be a significant support to the police services board. So thank you for being so willing to put your name out so publicly.

**Ms. Marie Moliner:** Thank you very much for your support.

**The Chair (Mr. Bill Mauro):** Thank you, Ms. Cansfield. We now move to the official opposition. Mr. McDonnell?

**Mr. Jim McDonnell:** Thank you for coming out today. I see we share a similar Queen's history back in the 1970s.

A lot to do with the police services, I believe, is an attitude of the force, with the way they handle people—and I guess we've seen some of the things that happened in the G20. My family has some police officers, and I see it from their perspective. What do you think you can bring to the board as far as attitude, just in general?

**Ms. Marie Moliner:** A possible significant perspective I bring is as a public servant. I know what it's like to be in the public eye and to be accountable for the taxpayers' dollars that I administer, for the work that my team does, and I'm very conscious that one never wants to be seen as not meeting the public expectations. So for me, policing in Toronto is very much about the board working with the chief to make sure that Toronto's police reputation is not only strengthened and preserved—but can be seen as the police force of the future.

This is an incredible city. The diversity in this city poses challenges, but huge opportunities. So I think it's really about strengthening the reputation of the police force through the board's role.

**The Chair (Mr. Bill Mauro):** Mr. Pettapiece.

**Mr. Randy Pettapiece:** Good morning. Are you still involved in the civil liberties movement, and if so, how will that experience play a constructive role on the police services board?

**Ms. Marie Moliner:** I'm not a member of the Canadian Civil Liberties Association. That was many years ago. What was instructive then was the need to really understand the checks and balances in democracy. So I would say that that was a grounding experience for me. After my call to the bar, that was my first job, and I really learned the different roles that the public sector, the private sector and the not-for-profit sector play.

**Mr. Randy Pettapiece:** My son and my daughter-in-law are both police officers. They've been there since 2000—not in this city. They both said to me that all they ask for is the tools to do their work and, if they're given the tools, not to be criticized for using them unless there's an abuse involved or they go overboard. That's really all they ask for.

How do you strike a balance between civil liberties, public scrutiny and diminishing resources and the need to help keep Torontonians safe?

**Ms. Marie Moliner:** Well, I think your children have given you the answer. It's all about training, tools and



making sure that, in this case, the police force and the officers know what's expected of them, are trained and know what management's response will be, should they need direction. At the end of the day, it's more complicated because of the complexity of policing. It's all about management making sure that employees have the tools to do the job.

**Mr. Randy Pettapiece:** Of course, they watched the G20 event that happened down here. They didn't participate in it. What they were upset with is—that's a very stressful situation to be in, and some things probably were done that shouldn't have been done, and I think that has come out. It gets increasingly hard to get police officers to take part in something like that on a volunteer basis, and one of the reasons why is because if something happens, it's difficult for them to try to do their job with the tools they have and then face the public afterwards.

**The Chair (Mr. Bill Mauro):** Ms. Thompson, anything?

**Ms. Lisa M. Thompson:** Yes, I do have a question. Marie, thanks so much for being here and offering your support of police constables and police services. I appreciate it very much.

I, too, have family members. My brother is a DC, a detective constable, with the OPP, and his son is an OPP officer as well.

Just a little side note, in light of what's going on this week in London: My brother was with Vu Pham the fateful morning, March 5—and his fate, should he have headed in an opposite direction than Vu later that morning.

Police officers deserve pride, respect and support, and part of that support is strong communications.

0940

As you mentioned before, increased public scrutiny is happening all the time around our officers. You mentioned the point of racial profiling. That said, you yourself have experienced some tough media with regard to your experience on heritage Canada, when they sponsored a particular play that profiled the life of a home-grown terrorist.

As you said, any police service needs to be strengthened and preserved. So with your experience from heritage Canada and being pressed from a media perspective in terms of your position on that one particular play, what can you bring to the police services board in terms of communication experience and an action plan, in terms of learning what you might have done differently addressing the play that you were pressed on—to supporting police services in Toronto?

**Ms. Marie Moliner:** You're right. In my 25-year career—at the end of 2010-11, there was media scrutiny around the one decision that my office was involved in. Luckily, we investigated, and as happens with media, we had done everything by the book. Nonetheless, we were in the media, and that happens, and that happens in policing.

What I've learned is, there are always two sides to every story; that public scrutiny is very difficult to

swallow; and that you learn, regardless of whether you were at fault, how you could have managed the situation better. In that particular case, revisiting training protocols and making sure that everyone understood what they needed to do was the right response. The play itself was almost a peripheral issue to what the learnings were, which is very much about making sure that the proper procedures were followed.

**The Chair (Mr. Bill Mauro):** Ms. Moliner, thank you very much. We'd just ask that you would take a seat in the audience and we'll consider the appointments.

We'll now consider the concurrence of the intended appointment of Ted Callaghan, nominated as member of the Council of the Royal College of Dental Surgeons of Ontario. Ms. Jaczek?

**Ms. Helena Jaczek:** I move concurrence in the intended appointment of Ted Callaghan, nominated as member of the Council of the Royal College of Dental Surgeons of Ontario.

**The Chair (Mr. Bill Mauro):** Any discussion? All in favour? Opposed? That's carried.

Congratulations, Mr. Callaghan.

We'll now consider the concurrence of the intended appointment of Marie Moliner, nominated as member of the Toronto Police Services Board. Ms. Jaczek?

**Ms. Helena Jaczek:** I move concurrence in the intended appointment of Marie Moliner, nominated as member of the Toronto Police Services Board.

**The Chair (Mr. Bill Mauro):** Any discussion? All in favour? Opposed? That's carried.

Congratulations.

Any other items for discussion? Mr. Tabuns.

**Mr. Peter Tabuns:** Mr. Chair, as I mentioned to you before the meeting convened, we have the ability in this committee to review agencies, corporate bodies of the government, and I would like to suggest that three be reviewed. I'm happy to take your advice on the precise route that we will have to follow to get to a decision, but I'd like to put that on the table now. The three bodies that I'd like to review are OPG, WSIB—and I'd like to look at the structure of the LHINs in Ontario.

**The Chair (Mr. Bill Mauro):** Thank you, Mr. Tabuns. Just for the committee's knowledge, Mr. Tabuns informed me just before the meeting began that he was going to bring the item forward. I've had the opportunity to have a short discussion with the clerk. It's entirely within the purview of the committee to consider agencies for review. The suggestion might be that we refer it to a discussion at subcommittee, perhaps, if you're amenable to that, Mr. Tabuns.

**Mr. Peter Tabuns:** I am amenable.

**The Chair (Mr. Bill Mauro):** Okay, that sounds great. If there's any other discussion on the item before we adjourn—otherwise, we would just refer the item to the subcommittee. Is that fair?

**Mr. Peter Tabuns:** Thank you, Mr. Chair.

**The Chair (Mr. Bill Mauro):** Thank you all very much. Any other items? Adjourned.

*The committee adjourned at 0944.*







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### STANDING COMMITTEE ON GOVERNMENT AGENCIES

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#### Vice-Chair / Vice-Président

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## Legislative Assembly of Ontario

First Session, 40<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Première session, 40<sup>e</sup> législature

# Official Report of Debates (Hansard)

Tuesday 17 April 2012

# Journal des débats (Hansard)

Mardi 17 avril 2012

## Standing Committee on Government Agencies

Subcommittee reports

## Comité permanent des organismes gouvernementaux

Rapports du sous-comité

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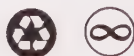
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES  
ORGANISMES GOUVERNEMENTAUX

Tuesday 17 April 2012

Mardi 17 avril 2012

*The committee met at 0901 in committee room 1.*

## SUBCOMMITTEE REPORTS

**The Chair (Mr. Bill Mauro):** Good morning, everybody. Welcome to the Standing Committee on Government Agencies. As you've heard, we have three reports to consider, the first one being the agency review. I think, Ms. Jaczek, you're going to read that one into the record for us.

**Ms. Helena Jaczek:** Yes, Chair. Your subcommittee on committee business met on Monday, April 2, 2012, to consider the method of proceeding on agency reviews, and recommends the following:

(1) That the list of agency reviews to be conducted read as follows (one selection per caucus):

—selection of the official opposition: Liquor Control Board of Ontario;

—selection of the third party: Workplace Safety and Insurance Board;

—selection of the government: Metropolitan Toronto Convention Centre Corp.

(2) That the committee request authorization from the House to meet on Tuesday afternoons following routine proceedings and at the call of the Chair during the summer adjournment.

(3) That the order for consideration of the selected agencies be:

—1st, official opposition selection;

—2nd, third party selection;

—3rd, government selection.

(4) That, subject to the authorization of the House, each agency be invited to appear before the committee on a Tuesday afternoon for their review.

(5) That the agency chair/CEO and agency staff be invited to make a presentation to the committee on behalf of each agency selected.

(6) That each agency be allowed a 10-minute opening statement, to be followed by questioning in rounds by each caucus.

(7) That each caucus provide the clerk with a list of stakeholder groups (per agency review) that they wish to invite to appear before the committee.

(8) That, subject to the authorization of the House, identified agency stakeholders be invited to appear before the committee on a Tuesday afternoon for questioning.

(9) That 40 minutes be allocated to each caucus's stakeholder selection(s) during each meeting.

(10) That the research officer provide committee members with an introductory briefing prior to the start of each agency review.

(11) That a questionnaire be sent to each agency selected, indicating a deadline by which responses are to be submitted to the clerk of the committee.

(12) That the research officer prepare background papers on each agency selected prior to review by the committee, and that the research officer prepare summaries of the hearings prior to report writing by the committee.

(13) That the background information provided to the committee by the research officer contain information on any bills before the House, press releases and/or articles relating to the selected agencies.

(14) That the clerk of the committee, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

**The Chair (Mr. Bill Mauro):** Thank you, Ms. Jaczek. Any discussion? Seeing none, all in favour? Opposed? Carried.

We have two other subcommittee reports, neither of which need to be read into the record. Any discussion? Mr. McDonell.

*Interjection.*

**The Chair (Mr. Bill Mauro):** Sorry, we need to move the first—yes, thank you.

**Mr. Jim McDonell:** I move that the subcommittee report of March 29 be accepted.

**The Chair (Mr. Bill Mauro):** Any discussion? Seeing none, all in favour? Carried.

Mr. McDonell.

**Mr. Jim McDonell:** I move that the subcommittee's report of April 12 be accepted as well.

**The Chair (Mr. Bill Mauro):** Any discussion? Seeing none, all in favour? Carried.

That's it. Thank you very much. The standing committee stands adjourned.

*The committee adjourned at 0905.*

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# Official Report of Debates (Hansard)

Tuesday 24 April 2012

# Journal des débats (Hansard)

Mardi 24 avril 2012

**Standing Committee on  
Government Agencies**

Intended appointments

**Comité permanent des  
organismes gouvernementaux**

Nominations prévues

Chair: Bill Mauro  
Clerk: Trevor Day

Président : Bill Mauro  
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STANDING COMMITTEE ON  
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES  
ORGANISMES GOUVERNEMENTAUX

Tuesday 24 April 2012

Mardi 24 avril 2012

*The committee met at 0901 in committee room 1.*

**The Chair (Mr. Bill Mauro):** Good morning, everybody. Welcome to the Standing Committee on Government Agencies.

## SUBCOMMITTEE REPORT

**The Chair (Mr. Bill Mauro):** First order of the day is the subcommittee report. Mr. McDonell, I understand you are going to read that into the record for us?

**Mr. Jim McDonell:** Yes. I move that the standing committee—report of the subcommittee, Thursday, April 19, 2012, be submitted.

**The Chair (Mr. Bill Mauro):** Okay. Any debate? Any questions or comments?

All in favour? Okay, thank you very much.

## INTENDED APPOINTMENTS

## MS. JOAN ANDREW

Review of intended appointment, selected by official opposition party: Joan Andrew, intended appointee as member, Niagara Parks Commission.

**The Chair (Mr. Bill Mauro):** Our first intended appointee this morning is Joan Andrew. Joan is nominated as a member of the Niagara Parks Commission. Ms. Andrew, please come forward.

You may begin with a brief statement if you wish. Any time used for your statement will be deducted from the government's time for questions. Each party will then have 10 minutes to ask you a question. Questioning will start with the government. We'll open the floor and ask you to make your presentation. We thank you very much for being here this morning.

**Ms. Joan Andrew:** Thank you for having me. I do have a very brief introduction.

I'm Joan Andrew. I started my public service career with the federal government in 1973, and joined the Ontario public service in 1988. I retired in 2009. At that time I was the Deputy Minister of Citizenship and Immigration and women's issues.

Currently, I work part-time at Ryerson University as the public servant in residence in the department of politics and public administration. In that capacity I do some lecturing, some student mentoring, and I have established a relationship with the Ontario public service that allows the students doing their master's in public

policy at Ryerson similar access to summer internships as that that exists with the University of Toronto. Last fall, I co-taught a course on public sector leadership.

I'm also on the board of directors of the YWCA of Greater Toronto, and I'm on a subcommittee of the board of the United Way and of the Learning Partnership. I'm also on the selection committee for the Amethyst Awards for Ontario public servants.

I've served as an assistant deputy minister and deputy minister in a number of ministries and under governments of all three political parties. As an assistant deputy minister, I worked at the Ministry of Education and Training, the Ministry of Training, Colleges and Universities, the Ministry of the Environment, and in Cabinet Office.

I believe I have a number of skills and attributes that will allow me to be a contributing member of the Niagara Parks Commission. I have over 36 years of public service. In that time, I've had experience leading large operational organizations and in leading the development of policy, legislation, regulations and programs.

I believe I have good analytic skills. I think I'm quite good at synthesizing complex issues. I understand the importance of protecting the public interest in government operations and the importance of developing and maintaining appropriate procedures and policies to ensure strong accountability, good governance and transparency for the public.

I have experience leading organizations through significant change, a variety of experience working with a wide range of stakeholders and working across different levels of government.

I've maintained my interest in public administration and believe that I can contribute to the governance and operation of the Niagara Parks Commission. Thank you.

**The Chair (Mr. Bill Mauro):** Okay, thank you very much. We'll start with the government side. Are there any questions?

**Ms. Helena Jaczek:** Yes. You've alluded a little bit to some of the attributes you would bring to this position. I'm sure you're aware there has been some history of issues at the Niagara Parks Commission. Can you elaborate a little bit more on what particular attributes you bring to this commission?

**Ms. Joan Andrew:** I believe I have a balance of attributes that I think lead to an ability for judging good governance. I've had oversight of a number of govern-

ment agencies in my capacity as assistant deputy minister and deputy minister. I have led organizations through new controllership procedures. I've had responsibility for large-budget operational matters. I've had responsibility for growing organizations; I've had responsibility for shrinking organizations.

I think I also have an ability to step outside current operations and think about how things could be done better for a number of organizations that I've worked with.

I've had responsibility with a wide variety of stakeholders over my career: working with women's organizations, working with community organizations, municipalities, professional and regulatory bodies—a wide variety of organizations.

**Ms. Helena Jaczek:** We really have no further questions. I just want to say that, given your very broad experience, I think you're ideally suited for this position. Thank you.

**The Acting Chair (Mr. Peter Tabuns):** Thank you. Official opposition, Mr. McDonnell.

**Mr. Jim McDonnell:** Thank you for coming out today. I'm sure you're aware of some of the controversial issues that have come up over at the parks commission. We were just wondering, how would you see yourself working with the board of directors to make sure it doesn't happen again, or that these issues are put into the past?

**Ms. Joan Andrew:** I think, being on the commission or the board of directors, you're part of a team. I know I have an ex-boss colleague, Virginia West, who's also on the Niagara Parks Commission, who actually is the person who initially interested me in this position. She has a long background in public administration as well. So I think I'll be part of a team that has a fair amount of experience of balance. She has training as a lawyer; she was also chief administrative officer of a municipality in Ontario. I think we bring a variety of different perspectives that allow us to be a good team. We're schooled in controllership, accountability, governance issues, managing large ministries and agencies.

I think, as previous deputy ministers, we have a certain political acuity, understanding what decisions might be appropriate or might not be appropriate for public agencies. I think we can bring that to the senior management team at the Niagara Parks Commission as well.

**The Acting Chair (Mr. Peter Tabuns):** Further questions? Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you for coming here today. As was alluded to earlier, there have been issues with this commission. I'm sure you've done your homework and I'm curious to know: In your perspective, what has been one of the main issues, and how would you address it in terms of bringing accountability to the commission in working with the directors and staff? What's one of the main issues that you would tackle, and how would you work with staff and the directors in terms of accountability?

**Ms. Joan Andrew:** I have done some homework, but I don't think I know exactly what has—I mean, I know they finished a new procurement process and things, but I don't know exactly, internally, where they're at, what they've already dealt with, perhaps, and what needs to be dealt with.

But I think in any public agency procurement, customer service is important. Making staff feel valued so that they can deliver a better service or product is important. There's a wide variety of issues that I think are important, and in an agency that has as wide-ranging a mandate as the Niagara Parks Commission, keeping all of that in balance is important as well, so you don't just focus on, for lack of a better word, procurement policies in the absence of worrying also about the welfare of the staff and whether they're—you know, for a major tourist attraction, customer service orientation is very important too.

0910

**The Chair (Mr. Bill Mauro):** Thank you very much.

Now over to the third party questions.

**Miss Monique Taylor:** Thank you for being here. You definitely seem to have a very full plate already of the things that you're involved in with the Y and with other agencies that you belong to at this time. How much time do you think that you would be able to bring to this, and do you think that you would have enough time to do adequate work with the commission?

**Ms. Joan Andrew:** My current position at Ryerson is only part-time, so it's only two days a week. I do my other volunteer work in the remaining time. I think compared to being a deputy minister, I'm not that busy. So I think I have the time. I explored the amount of time that would be expected in terms of board meetings, committee meetings and preparation for board meetings. I think it's probably two to two and a half days a month at the moment, so that's not an extraordinary amount of time in terms of how to balance that. It's not 75 or 80 hours a week, like it used to be.

**Miss Monique Taylor:** Right, and any other interests regarding the Niagara region at all or just something that—

**Ms. Joan Andrew:** I was struck—recently, I had the opportunity to host a delegation of IT experts from the government of Vietnam who were here to meet with federal and provincial governments, but the one thing else they wanted to do was visit Niagara Falls. I think when you're in Toronto, you forget how important Niagara Falls is to the tourism economy of southern Ontario; I'm not saying this is sort of a Toronto-centric view of the world, but every time I have a visitor come to stay with me from overseas, they want to go and see Niagara Falls. It's an important part of that, so I've had the pleasure of going on the Maid of the Mist several times.

I think the importance of the whole Niagara region and the importance of broadening the tourism experience to include some of the wine industry and the cultural aspects of Niagara and creating that kind of maybe more



modern tourist attraction in southern Ontario is really important, and I think the parks commission can play a role in that, too.

**Miss Monique Taylor:** That's good, because I believe that we've definitely lost a lot of the seed of the Niagara when it comes to the peach trees and the farming land out there, so hopefully when you move forward in this position, you will hold that kind of sector tight, knowing that that's a big part of Ontario. Thank you.

**Ms. Joan Andrew:** Thanks.

**The Chair (Mr. Bill Mauro):** Okay. Thank you very much, Ms. Andrew. I appreciate your time this morning.

**Ms. Joan Andrew:** Thank you.

#### MS. DOMINIQUE LEMIEUX

Review of intended appointment, selected by official opposition party: Ms. Dominique Lemieux, intended appointee as member, Grand River grant review team.

**The Chair (Mr. Bill Mauro):** Our next intended appointee is Dominique Lemieux. The bells are ringing, so we will begin—just to let Ms. Lemieux know, we will probably give this 17 minutes or so at the most, and we may end up having to run out to give members an opportunity to ensure they get to the House for the vote. So we will begin, but I apologize in advance that we may have to run and then come back to allow you to finish if we don't get completed in about 17 minutes.

So our second intended appointee today is Dominique Lemieux, nominated as a member of the Grand River grant review team. Madam Lemieux is here today. Again, any time used for your statement will be taken away from the government's time for questions. Each party will then have 10 minutes for questioning.

We'll turn it over to you. Thank you for being here this morning.

**Ms. Dominique Lemieux:** Thank you for having me here. I've never been to Queen's Park or any of your lovely buildings, so it has been nice walking around.

I guess I'll start by telling you a little bit about myself. I was born and raised in Hanmer, Ontario, which is a small city on the outskirts of Sudbury. There I did all my studies in French, from grade school to college. I graduated from Collège Boréal in 1996 from Techniques juridiques, which is a law clerk course. I was part of the first graduating class of Collège Boréal, which was the first fully French college in northern Ontario, so I'm very proud of that.

I worked in different law firms in Sudbury until moving to Brantford in 2003. Once in Brantford, I worked for the firm Reeves and Buck, for Douglas Reeves. There I worked mainly in family law, but I have experience in estate law, immigration law, personal injury, real estate and criminal law.

In 2010, I embarked on a different career path and was employed firstly as the administrative and cultural co-ordinator and now I've been promoted to mainly the cultural coordinator at the Centre français Hamilton. I coordinate various activities and festivals, as well as

work the yearly programs, the budgets, prepare our grant applications, and investigate sponsorship opportunities. I am very proud to be able to have a career in promoting and assisting in the growth of the francophone culture in all its diversities.

I also teach interval box at the athletic club, which is an aerobic class. Being active is very important to me, and this is an easy way for me to exercise and influence others in being active as well.

I am a volunteer on the condo corporation in which I reside. My tasks include monthly meetings, reviewing financials, dealing with issues and making decisions on behalf of the condominium and all its residents.

I am a proud and active member of the Franco-Ontarian community. I am very organized and balance two jobs and a volunteer position and keep a home. I am hard-working and welcome new challenges, and my skills, experience and work ethics are the foundation for my success.

**The Chair (Mr. Bill Mauro):** All right, thank you very much. We'll turn it over first to the official opposition. Mr. McDonell.

**Mr. Jim McDonell:** Thank you for coming out today, Ms. Lemieux. You've seen Trillium's had, basically, a bad report card from the Auditor General highlighting some of the practices, if I can kind of quote from his report, and noting that "the underlying process and resulting documentation often did not demonstrate that the most worthy projects" were chosen. So what's your feeling about that and how do you see you getting involved with the grant review team in a way that makes sure that, really, the most worthy projects are chosen? It is public money.

**Ms. Dominique Lemieux:** Everything—well, I hope to come with an open mind and have my community at heart. You know, I live in the Grand River area and I want to see projects that will influence my neighbours and the people I live with in a positive way and not be wasted on things that aren't really important for my community.

**Ms. Lisa M. Thompson:** Thank you for coming, Dominique. My question is around performance measures. Again, the Auditor General's report clearly reflects on the poor follow-up and lack of success metrics at Trillium.

You alluded to your experience with planning events and being very involved in your community, so as you think ahead to a potential position with Trillium, what would be three—a couple, two or three—performance measures that you feel very strongly about that you would introduce to the foundation in terms of making sure there is follow-up and success metrics followed? Because in so many cases in my local area, you know, folks will come out, they cut the Trillium ribbon, and then that's it.

**Ms. Dominique Lemieux:** I would definitely have more hands-on participating. If it's an event, I'd love to be there. I'd love to see it go through, you know, for my own personal gain as well as for my community. I think

it's important to have more hands-on, to be more, um—sorry. I think in French and translate in English.

**Ms. Lisa M. Thompson:** That's okay.

**Ms. Dominique Lemieux:** So my words are more applicable—to apply myself more, and to where the money goes. I want to see that what they say in their applications is actually what is being done. And then, you know, numbers speak volume. I know if the media is there, I'd love to see articles and feedback from people attending the festival—or I say festival because I'm working on a festival.

**Ms. Lisa M. Thompson:** Yeah. No, no, that's all right.

**Ms. Dominique Lemieux:** So yes, I think it would be important for me to be more hands-on, to participate at these events. Anything cultural, active—I love participating too. I think that's where I'd be of assistance.

**The Acting Chair (Miss Monique Taylor):** Any further questions? A member of the third party? Mr. Tabuns.

**Mr. Peter Tabuns:** Dominique, thanks for coming this morning. I'm assuming you've looked at the history of grants given by this agency?

**Ms. Dominique Lemieux:** Yes, a little bit. I have also applied for grants myself, so I understand the process and what it's really intended for.

**Mr. Peter Tabuns:** Would you bring an eye to this process that would shift the priorities for the grants?

**Ms. Dominique Lemieux:** I'd like to know that the monies being funded are actually for needs of Grand River, what they're looking for, what they need. I know they have a growing senior population, and there's lots of aboriginal issues. I always have a soft heart for activities for kids and families. I think that's what Grand River is mainly about, is family. We're not mainstream like Toronto. I'd love to see more of the funding being put towards what's important for the Grand River area and keep an eye out for those things.

**Mr. Peter Tabuns:** Do you feel that the arts have gotten the support from the granting body that they need?

**Ms. Dominique Lemieux:** I'd love to see more money going towards the arts. Because that's what I do, I

see how being actively in arts and culture and music is important in someone's life. I find sometimes it gets lost, and when it's something so simple that can bring everyone together—I mean everyone can appreciate music or art even if it's not their preference. Even if you like piano, you can still appreciate fiddle. I think it's an easy way to bring people together.

**Mr. Peter Tabuns:** I don't have any further questions, Madam Chair.

**The Acting Chair (Miss Monique Taylor):** Thank you. Any questions from the government?

**Ms. Helena Jaczek:** No. I'd simply like to thank Ms. Lemieux for being here. I'm sure she'll bring fresh eyes to the grant review team.

**Ms. Dominique Lemieux:** Thank you.

**The Acting Chair (Miss Monique Taylor):** Thank you, Ms. Jaczek.

Thank you for your presentation.

We will now consider the concurrence of the intended appointment of Joan Andrew, nominated as member of the Niagara Parks Commission.

**Ms. Helena Jaczek:** I move concurrence in the intended appointment of Joan Andrew, nominated as member of the Niagara Parks Commission.

**The Acting Chair (Miss Monique Taylor):** Ms. Jaczek has moved concurrence in the appointment. Any discussion?

All in favour? Opposed? Carried.

We will now consider the concurrence of the intended appointment of Dominique Lemieux, nominated as member of the Grand River grant review team.

**Ms. Helena Jaczek:** I move concurrence in the intended appointment of Dominique Lemieux, nominated as member of the Grand River grant review team.

**The Acting Chair (Miss Monique Taylor):** Ms. Jaczek has moved concurrence in the appointment. Any discussion?

All in favour? Opposed? This motion is carried.

Committee adjourned.

*The committee adjourned at 0924.*





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First Session, 40<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Première session, 40<sup>e</sup> législature

# Official Report of Debates (Hansard)

Tuesday 8 May 2012

# Journal des débats (Hansard)

Mardi 8 mai 2012

## Standing Committee on Government Agencies

Intended appointments

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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES  
ORGANISMES GOUVERNEMENTAUX

Tuesday 8 May 2012

Mardi 8 mai 2012

*The committee met at 0900 in committee room 1.*

## ORGANIZATION

**The Chair (Mr. Bill Mauro):** Good morning, everybody, and welcome to government agencies.

A couple of things: Our presenter this morning has been held up, and we're told he should be able to get here within the next 10 to 20 minutes. So while we're waiting, we thought we could just share a bit of information with you on what we're doing in terms of the agency review and look for some concurrence.

As you remember, we were looking for guidance back from the House leaders' office to allow us to meet in the afternoon so that we could review two agencies for sure. This afternoon, we were supposed to start. We have four dates left, including this week's. Obviously, we're not doing it today. We haven't gotten that direction back from the House leaders. That takes us down to three potential dates. Given that we needed two dates for each agency, I'm thinking maybe that if, in fact, we get a letter back allowing us to go forward, we would commit today to doing one agency, assuming we get the letter back, and that we would call—I think it's the LCBO which was the first request from the official opposition, which would then put the third party's agency over to the summer, assuming that we went forward in the summer.

We haven't got the okay back yet to do it, so I'm just throwing that out there, if there are any thoughts on that. I'm just looking for a concurrence from you to go forward in that regard.

Mr. Tabuns.

**Mr. Peter Tabuns:** If, in fact, the House leaders concur with afternoon sittings, we will have an opportunity to get to the second round, which would be energy?

**The Chair (Mr. Bill Mauro):** Remember, we were going to give one afternoon for the agency and then another afternoon for the stakeholders related to the agency, so we needed two per. Assuming today's isn't going to happen, we're only going to have three days left.

**Mr. Peter Tabuns:** Ah, okay.

**The Chair (Mr. Bill Mauro):** So if we went forward with your way, we'd only be able to get the agency and not the stakeholders part of it done. I guess we could do that; I'm not sure you would want to do that.

**Mr. Peter Tabuns:** We'd consult with our colleagues on that. But if you're making us that offer of the beginning of the WSIB hearing—

**The Chair (Mr. Bill Mauro):** We can certainly—  
*Interjection.*

**The Chair (Mr. Bill Mauro):** Go ahead.

**The Clerk of the Committee (Mr. Trevor Day):** If we get Tuesday afternoon authorization from the House immediately, we would have time for—again, three afternoons is what we were looking for: LCBO agency, WSIB agency, and then LCBO stakeholders is what we'd have time for.

**The Chair (Mr. Bill Mauro):** So the agencies back to back.

**Mr. Peter Tabuns:** Okay.

**The Chair (Mr. Bill Mauro):** Any thoughts on that? We're good with that?

**Mr. Peter Tabuns:** I just have to check with our House leader to make sure that he's comfortable with that arrangement as well.

## SUBCOMMITTEE REPORTS

**The Chair (Mr. Bill Mauro):** We've got the subcommittee reports. Mr. Pettapiece was going to move a motion on those.

**Mr. Randy Pettapiece:** I move the adoption of the subcommittee report dated Thursday, April 26, 2012.

**The Chair (Mr. Bill Mauro):** Thank you very much. Questions? Discussion? All in favour? It's carried. Thank you very much.

What else have we got?

*Interjection.*

**The Chair (Mr. Bill Mauro):** Oh, sorry, the second one as well. Mr. Pettapiece.

**Mr. Randy Pettapiece:** I also move the adoption of the subcommittee report on committee business dated Thursday, May 3, 2012.

**The Chair (Mr. Bill Mauro):** Any discussion? All in favour? It's carried. Thank you very much.

Okay, that's it. Just be close. How about we pick a time? It's only the one today. If we say we'll try for 9:30, that leaves us a full 30 minutes we're back and we're done by.

*Interjection.*

**The Chair (Mr. Bill Mauro):** Well, people have work to do. Let's let them.

We'll reconvene at 9:30. Thank you very much.

*The committee recessed from 0904 to 0906.*



## INTENDED APPOINTMENTS

## MR. BARRY PAYNE

Review of intended appointment, selected by official opposition party: Barry Payne, intended appointee as member, Durham, Haliburton, Kawartha and Pine Ridge grant review team.

**The Chair (Mr. Bill Mauro):** Good morning, everybody. We will reconvene Government Agencies. Welcome.

Our intended appointee today is Barry Payne, nominated as a member for the Durham, Haliburton, Kawartha and Pine Ridge grant review team.

Mr. Payne, please come forward and take a seat at the end of the table. You can begin with a brief statement if you wish. Any time used for your statement will be deducted from the government's time for questions. Each party will then have 10 minutes to ask questions, beginning with the third party. Welcome, Mr. Payne.

**Mr. Barry Payne:** Good morning, everyone. I apologize for my delay. It has been quite a morning. I felt like I was part of that movie *Planes, Trains and Automobiles* getting here this morning. I'm not used to facing a committee such as this, so if I'm a little nervous, please bear with me.

I appreciate the opportunity to appear before you today to be considered for a position on the grant review committee. I am a member of the Hiawatha First Nation, located on Rice Lake near Peterborough, Ontario. Though I reside on the Hiawatha First Nation, my journey in life has been widely varied. I actually grew up here in Toronto, in low-income housing in the Jane and St. Clair area. My mom, who also was a member of the Hiawatha First Nation, was mostly a single, working mother for most of my life.

After working in some of the areas covered by the review team, such as Durham region, Pine Ridge, I believe I have a lot to offer because I've probably interfaced with most of the organizations at one point or another during my time employed out there.

Because of my humble background, I've never really had any personal networks or special skills to assist me with my business ventures, other than the working-hard ethic instilled upon me by my mom, who worked in factories for most of her life in order to put food on the table.

I believe it's because of the extent of my own personal journey through life, starting out in university, loading boxcars to support myself, to eventually working with corporate giants such as Xerox and Canon in a sales capacity, that I learned many of the skills that enabled me to become successful in my own business ventures, and the eventual migration to starting up my own business from the basement in my home on the Hiawatha First Nation to one that today is now the third-largest supplier of furniture to the Canadian federal government, ahead of such American giants like Steelcase and Haworth.

I think this experience has taught me how to look at opportunities and evaluate their viability and potential. The path of starting and nurturing one's own business

quickly teaches a person the value of teamwork and working efficiently and effectively with others. The greatest aspect, I believe, in working in a team environment is the fact that there are many different views and skill sets to draw upon that make a team dynamic in its effectiveness.

I am not only looking at this opportunity to serve and give back to my community, but I think it's incumbent upon aboriginal people such as myself to get involved and hopefully encourage our young people to consider getting more involved in their communities and to consider serving on boards. I have learned through research that there are already a number of other aboriginal peoples involved with other area review teams. This is great to hear.

I think my participation with the grant review team allows me a starting point in hopefully gaining the experience to be considered for other boards as part of my natural evolution. My ultimate goal is to sit on a board for one of the banks or a large corporate institution.

I look forward to bringing my varied personal background to the grant review team. Thank you.

**The Chair (Mr. Bill Mauro):** Thank you, Mr. Payne. We appreciate that. We will now move for questions to the third party.

**Miss Monique Taylor:** Thank you for being here, and we're glad that you made it safely after your long journey.

**Mr. Barry Payne:** A little out of breath.

**Miss Monique Taylor:** I've been reading through your resumé and through the report submitted, and I was quite impressed, to say the least. I was happy to read the portion of why you wanted to be on this committee. Would you like to just state that reason a little bit further for the record?

**Mr. Barry Payne:** One of the reasons why this sort of committee appeals to me is because of my background, essentially. Having grown up in an area like Jane and Woolner, diversity is just a natural part of my everyday life. Because of that and the fact of my experience in the First Nations community, I believe that because of all the background kind of put together, it gives me a much better understanding when we're looking at grant applications from various community organizations. But also, again I believe that the more aboriginal people start to get involved with the community, hopefully it'll spur young people to start getting involved more as well.

**Miss Monique Taylor:** So you're saying, then, that a big portion of that would be to be encouraging youth to be involved?

**Mr. Barry Payne:** I would say, actually, a great proportion of it. Any of the activities that I do now in boards that I have got involved with, like the Aboriginal Chamber of Commerce in Winnipeg—I was initially on the start-up board for that, travelling back and forth at my own expense—it was actually to encourage aboriginal youth to get more involved. One of my passions in life is going out to aboriginal communities and getting involved in aboriginal youth groups and encouraging them to take control of their life and getting involved and possibly even starting up their own business.



**Miss Monique Taylor:** That's great. Thank you. That's it.

**Mr. Peter Tabuns:** No, nothing.

**Miss Monique Taylor:** Thank you very much.

**Mr. Barry Payne:** Thank you.

**The Chair (Mr. Bill Mauro):** Okay. Thank you. We'll go over to the government side. You have about seven minutes left, if you so choose.

**Ms. Helena Jaczek:** Thank you so much for coming, Mr. Payne. Given your life experience and business experience, can you just sort of outline for us a few of the skills that you think that you will bring to this grant review team in particular?

**Mr. Barry Payne:** I think one of the skills that a lot of people actually joke about is my intuition to look at opportunities and weigh out potential projects or business opportunities, whether they have a chance of being viable or potentially successful. I think that has probably been one of the biggest key factors to my background, and the fact that I'm used to working in a team environment. I would say that my success is not based on me solely. It's the people that I work with who have made me look successful.

**Ms. Helena Jaczek:** You mentioned that you grew up here in Toronto and obviously are now living at the Hiawatha First Nation. In terms of the Durham, Haliburton, Kawartha and Pine Ridge area, how long have you actually lived back in the region?

**Mr. Barry Payne:** Actually, I moved back to Peterborough in—my wife will kill me if I forget, because it's the year we got married. In 1991, I actually moved back to the Peterborough area.

**Ms. Helena Jaczek:** Okay. So you've been pretty familiar with all the community organizations and so on?

**Mr. Barry Payne:** Correct. When I moved back to the Peterborough area, I was actually working for Canon at the time, and one of the areas that came under my responsibility was the Durham region. So in terms of organizations that I'm sure would be applying for such grants, I'd be familiar with most of them in the Durham region.

**Ms. Helena Jaczek:** Okay. Thank you. Phil, anything?

**Mr. Phil McNeely:** No.

**Ms. Helena Jaczek:** No. We're good. Thank you.

**The Chair (Mr. Bill Mauro):** All right. Thank you very much. Now we'll now move over to the official opposition. Mr. McDonell.

**Mr. Jim McDonell:** Good morning, Mr. Payne.

Trillium has earned a few dents over the last few years. Just allow me to quote from the Auditor General's report: "We noted, for example, that two board members also own consulting businesses that provide service to the not-for-profit sector. We examined one of the businesses and found that of the 11 projects listed on its website, six had received foundation grants during the time the owner was on the foundation board. One of the grants included money for consulting services bought..."

Just with that in mind, if you were to implement any policy in your grant review team to make sure something similar didn't happen, what would it be and how would you do it?

**Mr. Barry Payne:** Actually, I remember reading that part in the auditor's report, and that was one of the parts that stuck out with me.

It's interesting that you bring that up because actually when I was involved with the Aboriginal Chamber of Commerce in Winnipeg, one of the things that really stuck out in my mind and bothered me was the fact that most of the board members were actually gaining some sort of business through their relationship with the board.

My business organizations are all located in Ottawa, and we deal strictly with the federal government, and we've never gone outside that area. So one of the things that is near and dear to me would be the fact of the conflict of interest. People, when they're serving on boards, need to do it from the heart and not for a business reason.

**Mr. Randy Pettapiece:** Yes. I'd like to ask a question too. Thanks for coming.

Money is tight and a lot of people are after the same money, and we have to ensure that the projects that get this money get it for the right reasons. There was a grant of \$120,000 to a community organization with one staff member for over a two-year period to develop a strategic plan for itself. Seeing that the auditor also showed how often grant review teams did not abide by their own rules on establishing grant merit or reasonableness and that you have been involved in your community, what are your measures of reasonableness for grants and grant amounts to a community project?

**Mr. Barry Payne:** Actually, I kind of liken it to my own business background experience. At one point in time—and I'm sure it was similar to the foundation's experience—when I started a business I actually was able to go out and visit pretty much every site we got involved in, looking at deficiencies and things like that. I think sometimes organizations like the foundation tend to get—maybe we get too big or we get, you know, tied up in the things that don't allow us to do what we should have been doing and doing check—like physical site visits and things like that.

Personally, I look forward to doing it because I think it's important for the taxpayers and government accountability to see where the money is actually going. It's been a pet peeve of mine sometimes that when I see an organization—and I've come across examples of what you're talking about, and it happens because of the lack of follow-up and accountability. But based on, I think, the recommendations as well as the response by the foundation, I believe one of their strategic goals now is to put more controls in place to make sure that that doesn't happen. I look forward to being part of that.

**Mr. Randy Pettapiece:** Okay. Thank you.

**The Chair (Mr. Bill Mauro):** Seeing no further questions, Mr. Payne, thank you very much for making it in here this morning. We appreciate the effort that you've gone through to be with us today.

**Mr. Barry Payne:** Thank you for your time as well.

**The Chair (Mr. Bill Mauro):** I will now consider the concurrence of the intended appointment of Barry Payne, nominated as a member of the Durham, Haliburton, Kawartha and Pine Ridge grant review team. Ms. Jaczek?

**Ms. Helena Jaczek:** I move concurrence in the intended appointment of Barry Payne, nominated as a member of the Durham, Haliburton, Kawartha and Pine Ridge grant review team.

**The Chair (Mr. Bill Mauro):** Ms. Jaczek has moved concurrence in the appointment. Is there any discussion?

Seeing none, all in favour?

Opposed, if any?

It's carried.

Thank you very much. Congratulations, Mr. Payne.

Seeing no further business, we're adjourned until next week. Thank you very much.

*The committee adjourned at 0918.*





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## Assemblée législative de l'Ontario

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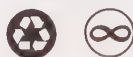
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STANDING COMMITTEE ON  
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ORGANISMES GOUVERNEMENTAUX

Tuesday 15 May 2012

Mardi 15 mai 2012

*The committee met at 0905 in committee room 1.*

## SUBCOMMITTEE REPORT

**The Chair (Mr. Bill Mauro):** Good morning, everybody. Thank you for being here this morning in government agencies. I apologize for being a couple of minutes late.

The first issue this morning is to deal with the subcommittee report, May 10, 2012. Do have a motion? Mr. McDonell?

**Mr. Jim McDonell:** I move that the subcommittee report be tabled.

**The Chair (Mr. Bill Mauro):** Okay. Any comments or discussion? All in favour? Carried. Thank you very much.

## INTENDED APPOINTMENTS

## MS. JENNIFER FISHER

Review of intended appointment, selected by official opposition party: Jennifer Fisher, intended appointee as member, St. Lawrence College of Applied Arts and Technology.

**The Chair (Mr. Bill Mauro):** The next item this morning is our first intended appointee: Ms. Jennifer Fisher, nominated as a member of the St. Lawrence College of Applied Arts and Technology board of governors. Is Ms. Fisher here?

You may begin, Ms. Fisher, with a brief statement, if you wish. Any time used for your statement will be deducted from the government's time for questions. Each party will then have 10 minutes to ask you questions. Questioning will start with the government.

We'll open the floor and ask you to make your presentation now. Thank you very much for being here.

**Ms. Jennifer Fisher:** Thank you. Good morning, Mr. Chair and members of the committee.

It's my pleasure to be in attendance today to discuss with you my order-in-council appointment to the board of governors of St. Lawrence College of Applied Arts and Technology. I'm in my third year of a three-year term as a board appointee on the board. I would like to expand on my experience to serve the best interests of the

public in a continuing role as a member of the board of governors of St. Lawrence College.

I am a public accountant with over 30 years of experience, and I'm currently a partner in a regional accounting firm in Kingston. In my practice, my client base includes a large number of not-for-profit clients. On my professional side, I've gained experience with the concerns and issues that are faced by the public and not-for-profit sectors. Financial, operational and HR matters are areas where I provide advice and support to my clients on a regular basis.

In 1997, I was awarded an FCA designation by the Institute of Chartered Accountants of Ontario in recognition of my contribution to the profession and the community. As you would see in my resumé, I have had a wide range of volunteer experience over a considerable number of years. My past volunteer roles have included being a member of the board of directors of the Kingston General Hospital Foundation, vice-president of the Public Accountants Council of Ontario, chair of the professional conduct committee of the Institute of Chartered Accountants of Ontario, and treasurer of the Belleville and District Chamber of Commerce.

I am currently the chair of the finance and resources committee of the University Hospitals Kingston Foundation, which raises funds for the three hospitals in Kingston, and I'm also on the board of directors of the Providence Care Foundation, Kingston.

I'm currently the chair of the audit committee of St. Lawrence College, and for the past three years have been a member of both the finance and administration committee and the audit committee.

During the past three years, I have developed a knowledge of the college and strategic goals and seen the success of many programs and initiatives undertaken by the college.

Prior to my appointment on the board, I taught continuing education tax courses to students at the college. This has provided me with an opportunity to work with students on improving their knowledge and skill levels. It was also an opportunity for me to work with support staff, who provide administration support to students.

The college has just started the process to hire a new president and CEO. I believe that my experience with previous recruitment for both my professional practice



and in certain of my volunteer roles will be of assistance in the hiring process for the new president and CEO.

In summary, I believe that I've demonstrated commitment to the St. Lawrence College board of governors over the past three years and my professional skills would be an asset to the best interests of the public should I be appointed to the St. Lawrence board of governors.

**The Chair (Mr. Bill Mauro):** Okay, thank you, Ms. Fisher. We'll go to the government side first, if there are any questions. You have about six minutes left.

**Ms. Helena Jaczek:** Thank you very much for coming in, Ms. Fisher. Certainly, your three years of experience already on the board has given you, I'm sure, a number of insights into the workings of St. Lawrence College in particular. Could you just outline for us some of the challenges and also the opportunities that you see, perhaps generalizing from your experience at St. Lawrence College for colleges in Ontario as a whole?

**Ms. Jennifer Fisher:** Certainly. One of the big challenges for colleges going forward, in my opinion, is trying to match the skill sets that are required by employers and industries out there and matching those with the needs of the students and trying to provide the students with the learning opportunities that best match their abilities to learn. That's one of the challenges, but it's also an opportunity.

0910

Another key opportunity that I see for the colleges right now is the training for second career opportunities for individuals—again, trying to match that skill set, that training base, with the needs of the public.

A big challenge, of course, is financial constraint, fiscal constraint. We have centrally bargained payrolls; against that, we have restrictions as to the funding sources for students with tuition fees and how the colleges can manage that.

**Ms. Helena Jaczek:** That's wonderful. We really have no further questions, given your experience and qualifications. I think you're ideally suited to the role.

**Ms. Jennifer Fisher:** Thank you.

**The Chair (Mr. Bill Mauro):** Any others? Thank you.

Official opposition? Mr. McDonell?

**Mr. Jim McDonell:** Thank you for coming out today. Being from eastern Ontario, I've had a little bit of experience with all three branches, one way or another. Particularly, I'd say, in Cornwall and Brockville, one of their issues is, for young people coming up, access to degree programs. I know in Cornwall they've got a few of those. Do you see the way of making more of these degree courses available to areas that are a little further away from universities as something that can be grown through your experience at the college?

**Ms. Jennifer Fisher:** Absolutely. The opportunity for students to move from taking their community college courses and having them applied to various university programs, degree programs, is a great opportunity for students. But being in eastern Ontario, the limited

number of universities that the students can attend—being able to take those courses at community colleges provides them with an easier access to a degree program.

St. Lawrence College now offers two different degree programs and is actively working with different universities on expanding that base. But this, in my opinion, is another way of providing students with a wide range of opportunities to expand on their academic levels and skill levels by having opportunities to work through the college programs to get their degrees.

**Mr. Jim McDonell:** Just a follow-up: I know that they have a number—they have, I think, nursing out of Cornwall, and they're affiliated with another school. They also have quite a few in Kingston, but, of course, Kingston has the capability of Queen's being there. So it's not as important as, say, in Cornwall and Brockville, that don't have access to a university nearby. But, of course, St. Lawrence being in Kingston as well, hopefully there would be some room to affiliate with Queen's or one of the other universities. I think you do it with either Thunder Bay or—

**Ms. Jennifer Fisher:** Laurentian is the university.

**Mr. Jim McDonell:** —Laurentian now to allow those programs to take place.

**Ms. Jennifer Fisher:** That's the intention. The other unique thing that we have with St. Lawrence College is that professors are able to teach on different campuses, so they're able to provide the same opportunities for degree programs at all three of the campuses. So it may be that a professor is teaching at, say, Kingston normally but is able to teach a course in Cornwall or Brockville and give those students that chance to be educated in that particular stream.

**Mr. Jim McDonell:** Okay.

**The Chair (Mr. Bill Mauro):** Mr. Arnott.

**Mr. Ted Arnott:** Those are good points, and I certainly want to express our appreciation for your interest in serving the people of Ontario through this important board.

The fact is, I have heard through the years from community college administrators that there need to be greater steps to encourage the opportunities for transferability of credits. I think that the provincial government needs to take some leadership on this, because isn't it true that some of the universities have been a bit resistant? There needs to be greater leadership, I think, on the part of the province to encourage the universities to accept this as an opportunity.

**Ms. Jennifer Fisher:** I think that the different administrations at the college level and the university levels are certainly in closer conversations. For example, in Kingston, the principal at Queen's University and the president at St. Lawrence College have had some very in-depth conversations and discussions, and it looks very promising that there will be some opportunities for a degree-program alliance between Queen's University and St. Lawrence College, which will be very appropriate, given the proximity. So at least St. Lawrence has ex-



perienced some great progress towards achieving that combination.

**Mr. Ted Arnott:** The most recent Statistics Canada report showed that Ontario still has a very high—unacceptably high—rate of unemployment. The fact is, we, as a provincial Legislature, have to respond to that. We've called upon the government to bring forward a jobs plan. It's also true that there's a significant number of jobs that go unfilled because businesses tell us they can't find skilled people. To what extent is your college addressing that issue, and how are we working towards finding a way to better anticipate future job needs so that we can ensure that our young people are trained for those jobs in the future?

**Ms. Jennifer Fisher:** St. Lawrence College has a system of community councils that allows the general public and the industry leaders in the area to meet with the administration, so that has been a great addition. One of the other points that we've had is, we've had some recent programs that have been developed and have very successfully enrolled members, so I think we've made some good progress, at least at St. Lawrence, in that regard.

**Mr. Ted Arnott:** Thank you very much.

**The Chair (Mr. Bill Mauro):** The third party.

**Mr. Taras Natyshak:** Good morning, Ms. Fisher. Thank you so much for appearing before us today. I represent a riding in southwestern Ontario—Essex—just outside of Windsor, and we're fortunate enough to have St. Clair College as our main college campus. You had indicated in your opening remarks about some of the challenges that you may be facing. I'll give you just a little bit of background. I used to work for the labourers' union, where we partnered with St. Clair College in the apprenticeship program, specifically the pre-apprenticeship program. It was quite successful. That partnership between labour and our colleges facilitated new entries into the construction sector to accumulate some credits at the college level as sort of an entry into the profession.

Are there any partnerships like that that are on the horizon, perhaps enhancing some current partnerships within the community or any emerging industries that the college may be focusing on?

**Ms. Jennifer Fisher:** We have solar. Kingston is unique because we are quite close to—part of our geographical area is Wolfe Island and the wind tunnels and windmills that are there. That has been one of the programs that a course was specifically developed for to accommodate those students who wanted their skill level improved so that they could be working in that industry. That's one of the partnerships that was developed.

Certainly the labour council is very involved with administration on developing needs for their labour groups, so I think we have—I'm trying to think of some of the others. We've had some interesting partnerships with the Irish Institute, so we've had some international affiliations as well—so using those opportunities to develop some ways of learning for our students.

Some of the other partnerships with labour, though, have been—I'm trying to think of some of the others. Obviously in Kingston we have a very large penal institution, so there have been a number of police foundation and correctional services-type training that has been expanded at the college.

**Mr. Taras Natyshak:** Thank you.

**Miss Monique Taylor:** Good morning, and thank you again for being here. I was just quickly wondering if your previous experiences would lead you to bring other options to the board and what you'd like to see come forward in new options, because we do have a huge job shortage. So what kind of other things would you implement to help that?

**Ms. Jennifer Fisher:** Certainly the connection with Queen's University and the opportunity to have professors from Queen's University and professors from St. Lawrence College working together on developing new programs. I'm not sure if I can offer anything more. I'm thinking more around just being very aware of what the community council ideas are that are coming forward, because those community councils are in all of the campuses, and they allow the administrators to hear direct feedback from industry leaders as to what's needed—so the enhancement of that.

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Centres of excellence is a key area for the college, wanting to determine which areas we can put St. Lawrence College on the map as far as being a leader. The St. Lawrence College KPIs have exceeded the province's standards—the province-wide averages. So we are also able to use that information to determine from employers and students and alumni what areas would want to be improved on—so using that data to bring forward new program ideas.

**Miss Monique Taylor:** Okay. Thank you very much.

**The Chair (Mr. Bill Mauro):** Thank you very much, Ms. Fisher.

MRS. ELIZABETH WITMER

Review of intended appointment, selected by third party: Elizabeth Witmer, intended appointee as chair, Workplace Safety and Insurance Board.

**The Chair (Mr. Bill Mauro):** Your second intended appointee this morning is Elizabeth Witmer, nominated as chair of the Workplace Safety and Insurance Board.

Ms. Witmer, could you come forward, please? Good morning. Just to let everybody know in the audience, as well as committee, that the bells are ringing: I think we'll go maybe to about the five-minute mark, which will give us—I think that says 20 minutes on there. So we've got 13 or 14 minutes before we'll recess, assuming we're not done, to go in for the vote and come back and clean this up.

So, good morning, Ms. Witmer. Welcome. Thank you for being here this morning. I'm sure you're aware of the process. You'll have 10 minutes. Any time you use will be deducted from the government's time. Thank you for



being here, and then we'll go through to our questioning. So, good morning, and you're welcome to begin.

**Mrs. Elizabeth Witmer:** Thank you very much, Mr. Chair and certainly members of the committee. I appreciate the opportunity to appear before you this morning. I will make an opening statement, and after that obviously I would welcome your questions.

First of all, I want to say how honoured I am to have been nominated to be the chair of the WSIB. I do look forward very much to ushering in a new era for the WSIB that would provide fair funding and stability for injured workers and also have a positive impact on their lives and the lives of their families, as well as providing stability for the employers.

I see it as a period of time where there will be extensive consultation, collaboration and transparency with all stakeholders as we move forward to deliver on the recommendations of the Arthurs report.

Why do I think that I am qualified to lead this organization? Well, I would reach back as far as my roots. I'm proud to say I'm the daughter of immigrants who came to this country when I was four years old, and I can tell you that my mother and father have worked hard. First, they laboured in the sugar beet fields of Alberta. My father worked in construction, in a dairy and as a custodian, and I believe that gives me insight into certainly many of the stakeholders with whom the WSIB interacts.

I also believe that I have the skills, attributes, experience and expertise to assume this position based on past work experiences that I have had.

I began life after graduation as a secondary school teacher first and then as a trustee and chair of the Waterloo regional school board, then Minister of Labour, Minister of Health and Long-Term Care, Minister of the Environment, Education and Deputy Premier.

I believe that all of these experiences, as well as the challenges that I faced in those different positions and was able to overcome with the assistance and in collaboration with others, will assist me in the task ahead at the WSIB.

As chair of the school board, I was involved in negotiations with all the employee groups, such as teachers, custodians and secretaries, and I can tell you that we always arrived at mutually agreeable settlements after very amiable and respectful discussions and deliberations.

I was proud to establish school advisory committees at each school in order that the views of parents could be considered in decision-making. When full funding was introduced for Catholic schools, I initiated the establishment of a committee between the public and Catholic boards to facilitate the rollout and ensure that the concerns and challenges of the day could quickly be addressed and resolved and not impact on students and the learning environment.

In 1990, I was honoured to be elected MPP for Waterloo North. I replaced the Liberal MPP, Herb Epp, who had done a great job, and many people at that time indicated that their support for me was based on my track

record as a trustee and chair and on the non-partisan and collaborative approach I took to getting the job done. I'm going to take that same approach as chair of the WSIB. I plan to work in collaboration with others, and I plan to consult widely, and I plan to make sure that all that I do is transparent to the public.

After being the trustee and moving into the MP role, I became the Minister of Labour. I would tell you my focus, first and foremost, was always on safety. I was impacted very strongly by a visit from Paul Kells and his family early on in my tenure, who told me about their son, who, during his summer job and first few days in the workplace, unfortunately died after an accident. It became apparent, as the Minister of Labour, that we needed to promote workplace safety for students in the workplace and we needed to give them the confidence that they could refuse unsafe work. So, much of my time as Minister of Labour was focused on workplace safety, encouraging young people to understand their rights, and their right was, they could refuse unsafe work. Perhaps if Paul Kells's son had been able to do that, he would be with us today. But I will tell you, that visit had a strong impact.

I am passionate about safety and a healthy workplace, and that continues to this day. That is certainly the reason why I considered this position. I would continue, if approved today, to put that focus on safety and a healthy workplace and prevention of accidents, and also educating and raising the awareness of workers—all workers, of all ages. And there is much, much more to do.

As Minister of Health, I was proud to build bridges with stakeholders, to strengthen our health system and improve access to it. We initiated family health teams; cancer, cardiac and more MRIs close to home; the first universal flu vaccine; and the list goes on.

I would say to you, I've never felt that I was able to accomplish anything in this life without the support and the collaboration of others. You don't do anything alone, and it does require a lot of consultation.

As Minister of the Environment, I recognized the impact of the coal plants on human health, and working again with my staff and others, we introduced a plan that enabled Lakeview to be closed. All of the others would be, too, if the plan had been followed, by 2014, and I'm proud that we closed Lakeview.

As Minister of Education, my job was to rebuild the bridges with teachers in order to restore harmony, and I tried to do so. I also developed programs to support students at risk, early literacy and numeracy. My goal was always to help those students achieve success and self-confidence and be the best that they could be.

More recently, as education critic and health critic, and in response to the pleas of students, parents and teachers, I undertook research and consultation for almost three years to develop a policy to raise the awareness of bullying and hopefully prevent it. That was found in Bill 14, which I now know has been, obviously, renamed and is in committee at the present time.



I would just conclude by saying I believe that my life experience, who I am, the values of my parents, my experience leading different ministries and the school board, my experience working with a very diverse range of stakeholders from all walks of life and backgrounds, and also working across different levels of government do, I think, put me in a unique position of chairing the WSIB.

I also believe that my general knowledge and understanding of the WSIB will assist me in that commitment. As well, I am committed to ensuring the development of appropriate procedures and policies to ensure accountability, strong governance and transparency for the public.

I would end by simply saying I would very much look forward to the opportunity to chair the WSIB. I have always had a strong passion for public service. I was a teacher first. Then I served as a school board trustee and MPP. Now, after 32 years of public service, I would like to be able to continue that in the role as chair of the WSIB. Thank you very much.

**The Chair (Mr. Bill Mauro):** Thank you, Ms. Witmer. That has pretty much used up all of the government's time, so we'd be beginning—we're under 10 minutes—with the official opposition. But I think we should break now, recess, come back and begin with the official opposition. For the audience, we will recess now for the vote, and we will be back immediately once the vote has concluded. Thank you.

*The committee recessed from 0931 to 0947.*

**The Chair (Mr. Bill Mauro):** Okay, thank you, everybody. Welcome back to government agencies. As mentioned, Ms. Witmer used up most of the 10 minutes, so the government will not have any time for questioning. We will now begin questioning with the official opposition and Mr. McDonell.

**Mr. Jim McDonell:** It's great to see you back, Elizabeth. I'm going to say that, as one of the new members here, I really appreciated what you brought to our organization, the help you provided us and the stability you provided to the whole caucus as well and the advice you were able to give us.

I know that you've probably been receiving briefings on the WSIB. Is there a proposed direction that you would like to see or any changes you think are waiting to be had?

**Mrs. Elizabeth Witmer:** Well, thank you very much, Mr. McDonell, for the kind statement and also for your question.

I really do think that at the current time, the WSIB is undergoing a transformation. It is certainly becoming a more modern board. I think it's endeavouring to do everything that it can, with the leadership of the past chair, the new president and those who are employed there, and certainly with the support of the government, to ensure that it provides fair funding to the injured workers. Also, when injured workers sustain their injury, they're endeavouring to get them back to work as quickly as possible and to reintegrate them into their workplace,

provide them with the support that is necessary. So I see this happening much more efficiently and effectively moving forward into the future.

At the same time, they are endeavouring to provide more in the way of technology and support to injured workers and the employers and to put the entire organization on a more sustainable basis. That's necessary if we're going to be providing the injured workers and their families with the support they need.

I think much of the next five years is going to be influenced by the Arthurs report, and at this point in time, that's a very exciting future. I think, certainly, Arthurs has done extensive consultation and collaboration. There has been a lot of transparency. He has reported back to the stakeholders every step of the way. I would hope that as we take a look at his report and his recommendations that, under my leadership, that would continue, that we would keep in close touch and consultation and collaboration and provide that ongoing transparency as we look to chart the new direction for the WSIB—always keeping in mind what it was intended to do, and that was to provide compensation to the injured workers in a no-fault workplace.

**The Chair (Mr. Bill Mauro):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you for being here today, Elizabeth. I certainly appreciated the experience that you outlined in your opening comments. Without a doubt, your years of experience have left a positive impression on all who have dealt with you.

Reflecting on your years of being an MPP within the PC Party of Ontario, you've left a great mark on Kitchener-Waterloo, from the Grand River Hospital to the research and technology centre affiliated with the University of Waterloo. You've had many achievements.

I was wondering today if you could remark on some of your proudest achievements in terms of what you delivered for KW and how those experiences will shape and impact your responsibilities as chair of the WSIB.

**Mrs. Elizabeth Witmer:** Well, I guess as an MPP—I was proud to serve for 22 years. I've always had a motto. My motto is that each day I hope that I can improve the life of another person, somehow, in how I conduct myself and in how I approach the problem that I'm presented with. I would say to you that although there is a lot that obviously is public, some of my happiest moments as an MPP were actually spent helping other people quietly behind the scenes in my constituency office. My focus always has been to help other people.

I think I had a lot of success with different people who came before us who were having trouble with government agencies. I'm sure you've experienced that, too. Initially, when I began, we had many, many people come who were injured workers and were not getting satisfaction in dealing with the board. We had people, obviously, who came because of other situations where they had trouble dealing with government agencies. So my job was to help them find a solution.

I would say to you, I've always moved forward in response to the needs of my community. As they say, an



MPP's job is to be responsive. When my community wanted more health services, we worked together. I worked together with regional council and others in order to be able to provide that cancer service and cardiac service.

I would just remind you, Ms. Thompson: In politics or whatever you do, you can't do it alone. If you don't consult, if you don't collaborate, you can't achieve very much.

**The Chair (Mr. Bill Mauro):** Mr. Arnott.

**Mr. Ted Arnott:** Thank you very much, Mr. Chair. Elizabeth, congratulations on your appointment. I want to express my unqualified support, and I do believe and would agree that you are uniquely qualified to fulfill this important public service as chair of the Workplace Safety and Insurance Board, having served as Minister of Labour with distinction, Minister of Health, Minister of the Environment, Minister of Education and Deputy Premier, obviously.

When you announced that you were retiring from provincial politics and we sat the following Monday, I think it was unprecedented that all three party leaders, at the very first available opportunity, paid tribute to your outstanding service. Of course, our leader, Tim Hudak, said, "We will be eternally grateful to Elizabeth Witmer for her leadership, her dedication, her guidance and the incredible service...." He went on and on.

Premier McGuinty said that you were "the genuine article; a politician with a heart for public service; a leader who cares for those around her; a dedicated, passionate, articulate, thoughtful representative of her community...." He goes on and on.

Of course, the leader of the New Democratic Party, Andrea Horwath, was very positive as well, saying, "Liz served her constituents with honour and, I'm sure, earned their gratitude, which I'm sure is why they continued to return her to this place election after election...." She said in conclusion, "On behalf of New Democrats, I want to thank Elizabeth and her family for having taken on a job over the last couple of decades that is often a thankless job. Thank you, Liz."

Again, it was, I think, unprecedented that all three party leaders spoke so favourably about the work that you've done as an MPP as well as the person that you are.

I was doing some research before I came here this morning, and I was interested to see that you're following a number of former elected members of provincial Parliament who have then, in turn, served as chair of the Workers' Compensation Board, as we used to call it, and now the WSIB: Lincoln Alexander, a former Conservative member of Parliament from the Hamilton area who served as chair of the WCB, as we called it in those days, appointed in 1980 by the Davis government; Robert Elgie, who was a long-serving Conservative member of provincial Parliament, was appointed by Premier Peterson in 1985; Odoardo Di Santo, who served here as the Downsview MPP for about 10 years and then was appointed by the Bob Rae government as chair of the

Workers' Compensation Board in 1991—and I think I was actually at the hearing when he was brought forward to answer questions; and then, of course, Steve Mahoney, whom we served with in the Legislature from 1990 to 1995, who in turn served in the House of Commons and then became the chair of the WSIB. So you have big shoes to fill, obviously, and I know that you recognize that.

One of the most important issues facing the WSIB as we go forward, I believe, is the unfunded liability, because employers are concerned about how that's going to be paid down. Injured workers are concerned too, because if the money is not there, obviously—

**The Chair (Mr. Bill Mauro):** Mr. Arnott, I'll just let you know you have about one minute left to wrap up.

**Mr. Ted Arnott:** I was just getting started, but thank you very much. I'll stop.

What are your thoughts on the WSIB's unfunded liability and what we need to do to confront it?

**Mrs. Elizabeth Witmer:** That was the issue that came to a head as a result of the report by the auditor. That was what triggered the Arthurs report. Obviously, we need to take a look, and he has recommendations and the government has already indicated their support for a couple of them regarding funding sufficiency.

Fair funding is absolutely necessary if we're going to meet the needs of those workers who are injured on the job, and also the needs of their families. Of course, the employers who pay the WSIB also need to know that the organization is on a strong, firm footing. So I look forward to making sure that we can continue to provide fair funding as it applies to both injured workers and the employers.

**The Chair (Mr. Bill Mauro):** We'll now turn it over to the third party. Mr. Natyshak.

**Mr. Taras Natyshak:** Good morning, Ms. Witmer. Thank you once again for agreeing to appear at the committee today. I echo the sentiments of my colleagues here in thanking you for your long and storied history as a representative for Kitchener-Waterloo. We all know the contribution that you've made to that region and, of course, to this Legislature, so thank you once again for your time.

Much has been made about the nature and the timing of your appointment as the chair of the WSIB, as I'm sure you can appreciate. I'd like to know a little bit more about that process that ultimately led you here before us today. Could you tell us when you were first approached for your interest in becoming the chair of the WSIB?

**Mrs. Elizabeth Witmer:** Well—

**Ms. Helena Jaczek:** Point of order, Mr. Chair.

**The Chair (Mr. Bill Mauro):** Sorry. Ms. Jaczek, on a point of order.

**Ms. Helena Jaczek:** I believe, Mr. Chair, through you to committee, that if the committee decides to call the appointee or a nominee to appear, it is limited by the standing orders to examining the individual's qualifications and competence to perform the duties of the



office sought, so that questions to the applicant should be limited to that line of inquiry.

**The Chair (Mr. Bill Mauro):** Ms. Witmer, if you're comfortable answering, it's entirely up to you. The point of order that Ms. Jaczek has raised is in order. The members of committee are required to maintain and keep their questions focused on your qualifications to serve in the intended appointment position. But we'll leave it up to you; if you choose not to answer, then that would be fine as well.

**Mr. Ted Arnott:** On the same point of order, Mr. Chair: If the standing orders specifically state that the questions are to be exclusively based on the qualifications, how is it that it's appropriate—

**The Chair (Mr. Bill Mauro):** Well, I appreciate that, but I've been advised by the clerk that it is entirely up to the invitee if they want to answer or not.

**Mrs. Elizabeth Witmer:** I will speak to my qualifications. I would just like you to know that, certainly in recent months, I've been approached by several people in the private sector to lead organizations in the private sector, all which I declined. I was also encouraged in the past few months by many other people who came from different parties, different walks of life, to consider putting forward my name as a nominee for the Workplace Safety and Insurance Board.

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I would say to you that, initially, although I was excited about that opportunity because of my passion for public service—and that would allow me to continue to serve the people in the province of Ontario—it wasn't something that I thought I would do. But as time went on and my personal situation changed and my life changed and the health of some of my family members changed, I realized that perhaps a change in lifestyle was important. I came into politics very carefully considering my family. In fact, the first time I was asked to run as an MPP I declined because I didn't believe it was the right time for my family and for me personally—

**Mr. Taras Natyshak:** Ms. Witmer, thank you. I've got to move on to some other questions. Were you asked to consider or did you consider any other positions other than the WSIB after deciding to leave politics? Were there any other areas of interest? Of course, you've got a wealth of experience. Was it specifically the WSIB that you had focused on, or were there any other areas that potentially you considered?

**Mrs. Elizabeth Witmer:** I would say to you—I'll come back to what I said before—I was presented with several other private sector offers. But I would say to you it was people encouraging me to consider this particular position that excited me. I did enjoy and appreciate the opportunity to, I hope, raise the awareness of the need for health and safety in the workplace. I've put a lot of time and effort into making sure that we focused on prevention of injuries in the workplace—

**Mr. Taras Natyshak:** You had mentioned—sorry to cut you off—that people had approached you. One of those people who have been indicated is a gentleman

named Rob Prichard, who was essentially the broker between matching you with the position at the WSIB—

**The Chair (Mr. Bill Mauro):** Mr. Natyshak, please. I'm going to ask you to maintain adherence to the standing orders and to ask your question specifically focusing on Ms. Witmer's qualifications to serve in the position, please. I've allowed you to interrupt her twice. I understand—

**Mr. Taras Natyshak:** Well, we're time-limited here, Chair.

**The Chair (Mr. Bill Mauro):** Fair enough. That's why I gave you some latitude the first two times. I'm asking you now to please adhere to the standing orders. Thank you.

**Mr. Taras Natyshak:** Fair enough. We'd like to know a little bit about the nature of the compensation that you'll be receiving, because it differs from the original post of chair. Was the salary that we understand that you'll be receiving negotiated?

**Mr. Ted Arnott:** On a point of order, Mr. Chair: You just asked him to adhere—now, he has been subbed in. He's a new member. Perhaps he's not familiar with the rules—

**Mr. Taras Natyshak:** Oh, I mean—

**The Chair (Mr. Bill Mauro):** Please, no back-and-forth, Mr. Natyshak.

**Mr. Ted Arnott:** But the Chair has clearly ruled that the member must adhere to the standing orders.

*Interjection.*

**The Chair (Mr. Bill Mauro):** I'm sorry?

**Mr. Taras Natyshak:** I'm trying to listen to you, Chair.

**The Chair (Mr. Bill Mauro):** Yes, and we will ask you for the last time: Please keep your questions focused on Ms. Witmer's qualifications to serve as the intended appointee as the chair of the WSIB.

**Mr. Taras Natyshak:** Okay.

**The Chair (Mr. Bill Mauro):** You are using up your own time here, not the government's time or the official opposition's time. So it is your time that you are using in this debate.

**Mr. Taras Natyshak:** Ms. Witmer, you've mentioned the Arthurs report that was just tabled. The Arthurs report expands on potentially some uncovered sectors and ensuring that the unfunded liability is not balanced on the backs of injured workers; that's its main thrust and focus. Do you intend on pursuing that type of agenda, ensuring that the unfunded liability is not burdened by the workers of this province, as has been the case in history and as Mr. Arthurs pointed out? What are your intentions in terms of following through with the recommendations under the Arthurs report?

**Mrs. Elizabeth Witmer:** Well, I would say to you I am very thankful that, hopefully, at the start of my term, I have the benefit of the Arthurs report, because he did engage in a very thoughtful consultation with all the stakeholders. I would plan to move forward, before I make any decisions, with further consultations and also



transparency and collaboration in order to determine where we would go.

As I say, my focus is to ensure stability for injured workers and their families, to provide them with the fair funding that they need and the benefits that they deserve when they're injured, obviously, to assist them into returning to work as quickly as possible. But I look at this as an opportunity for further consultation, and I think that's what Arthurs did recommend. That's what I would do. I'm going to visit the local offices, and I'm going to meet with all of the stakeholder groups. I hope to do that in the course of the summer, if I am appointed, because I want to hear from those individuals first before there are any—any—decisions made. I would say to you: There will be absolute transparency. People will know what we are doing before we publicly announce it.

**Mr. Taras Natyshak:** Thank you.

**The Chair (Mr. Bill Mauro):** Ms. Taylor.

**Miss Monique Taylor:** Thank you, Ms. Witmer, for being here with us this morning. I know it's kind of tough, but I'm sure you can understand that it's necessary from our point of view.

**Mrs. Elizabeth Witmer:** I've sat on that side.

**Miss Monique Taylor:** My question is: This was previously a part-time position; what is it that you believe makes this job a full-time position? What is it that can be done differently to ensure that it's worth the salary that is now coming forward, compared to what it was previously? What is it that you're going to do differently to make sure that it is the workers and that the job is going to coincide from the part-time to, now, a full-time?

**Mrs. Elizabeth Witmer:** I think if you take a look again and you hearken back to the Arthurs report, it really is a very comprehensive review of the system—although there are some areas that he didn't touch that, perhaps, we need to do further consultations about. I see the job, at the present time, as massive, requiring a full-time undertaking. I know the current chair recommended that it be a full-time position because of the magnitude of the review and the consultations that are going to be absolutely necessary if we're going to be able to implement them in a way that takes into consideration the viewpoints of all of the stakeholders, whether that's the injured workers or the employers.

It is a massive undertaking, and that's the reason for the full-time position.

**Miss Monique Taylor:** Okay. Thank you—

**The Chair (Mr. Bill Mauro):** We're right against it. I'll allow you one final question.

**Miss Monique Taylor:** From the onset, was this offered to you as a part-time position, or was it just straight out directed to you as a full-time position? We know we're underfunded, so we're trying to get to the reasoning of, now, where is it going to fall back to?

**Mrs. Elizabeth Witmer:** Yes, this is a full-time position, and it was based on ensuring that the comprehensive review undertaken by Professor Arthurs could be successfully implemented after extensive consultation and collaboration and on a focus on transparency—much

in the way that he did his job. I think that received very strong support from all of those impacted.

**Miss Monique Taylor:** Just to be clear: It was offered to you as a full-time position?

**The Chair (Mr. Bill Mauro):** Thank you, Miss Taylor. I'm sorry, I gave you a little bit of extra time there already.

*Interjection.*

**The Chair (Mr. Bill Mauro):** I gave you a little bit of extra time there already; I'm sorry.

Ms. Witmer, thank you very much. We appreciate you being here this morning.

**Mr. Taras Natyshak:** Chair, clearly we haven't had enough time. I'd like to move that an additional five minutes be given to each party to ask Ms. Witmer more questions, for a total of 15 minutes.

**The Chair (Mr. Bill Mauro):** Any discussion?

**Ms. Helena Jaczek:** Quite honestly, Mr. Chair, I do not feel this is necessary at all. We've had an extensive review of Ms. Witmer's qualifications and competencies. I think we're going to be opposed to any additional time.

**The Chair (Mr. Bill Mauro):** Anything from the official opposition? Okay, we'll call a vote on it. All in—sorry, Mr. Arnott. You have a comment?

**Mr. Ted Arnott:** I asked all the questions that I need to ask, Mr. Chair.

**The Chair (Mr. Bill Mauro):** Okay, so we need to vote on this, then. All in favour? Opposed? It's lost.

Okay, Ms. Witmer, thank you very much. We appreciate your time.

I will now move to concurrence. We'll consider the concurrence of the intended appointment of Jennifer Fisher, nominated as member of the St. Lawrence College of Applied Arts and Technology board of governors. Ms. Jaczek.

**Ms. Helena Jaczek:** I move concurrence in the intended appointment of Jennifer Fisher, nominated as member of the St. Lawrence College of Applied Arts and Technology board of governors.

**The Chair (Mr. Bill Mauro):** Any discussion? All in favour? Opposed, if any? It's carried. Thank you very much.

I will consider the concurrence of the intended appointment of Elizabeth Witmer, nominated as chair of the Workplace Safety and Insurance Board. Ms. Jaczek?

**Ms. Helena Jaczek:** I move concurrence in the intended appointment of Elizabeth Witmer, nominated as chair of the Workplace Safety and Insurance Board.

**The Chair (Mr. Bill Mauro):** Any discussion? All in favour? Opposed, if any? It's carried.

Thank you very much, and congratulations to both of the appointees.

## COMMITTEE BUSINESS

**The Chair (Mr. Bill Mauro):** We do have another order of business to discuss. We have a motion moved by Mr. McDonell. Mr. McDonell, I think you are required to read this into the record.



**Mr. Jim McDonell:** Pursuant to standing order 122(a), the Standing Committee on Government Agencies (herein referred to as “the committee”), seek the authorization of the House leaders of each of the recognized parties of the House to be permitted to adjourn and meet from place to place in the province of Ontario between the dates of June 11 and September 7, 2012, for the purposes of:

(1) Hearing from stakeholders, witnesses and agency officials within the mandate of the committee and of the specified agency reviews undertaken by the committee in accordance with the approved review schedule and in destinations approved by the subcommittee on committee business; and

(2) Undertaking field visits outside of meeting times within the purpose and scope of the agency reviews at the destinations approved by the subcommittee on committee business;

That the subcommittee on committee business shall convene at the earliest opportunity to identify locations in Ontario for the committee to travel to undertake its business and that the approved subcommittee report be immediately circulated electronically to all members and be deemed adopted forthwith by the committee.

**The Chair (Mr. Bill Mauro):** Thank you, Mr. McDonell.

Is there any discussion on the motion? Mr. McDonell?

**Mr. Jim McDonell:** Just to say that the idea of the last paragraph is that the committee would decide what locations they’d want to be meeting in.

**Mrs. Donna H. Cansfield:** It’s just an issue of clarification. The subcommittee, you identified, would be the folks who would come together and look at the different locations. Is that the suggestion in your motion?

**Mr. Jim McDonell:** Yes.

**Mrs. Donna H. Cansfield:** So would the subcommittee come forward with suggestions and then the commit-

tee would have the opportunity, or the subcommittee would make the decisions?

**Mr. Jim McDonell:** Traditionally, I’m not sure. Is it that the subcommittee would—

**The Chair (Mr. Bill Mauro):** The way it’s worded, it sounds like the subcommittee will have the final decision and not come back to the whole committee. That’s the way this is worded, so if you would like to amend that or vote on it as it is, then—

**Mrs. Donna H. Cansfield:** It’s just normal practice for a subcommittee to report back and then it be adopted, so I would just make the amendment that the report back be adopted by the committee. I don’t anticipate, but I was just thinking it might be a better way for a discussion.

**Mr. Jim McDonell:** Sure.

*Interjection.*

**The Chair (Mr. Bill Mauro):** What the clerk is recommending is that the last part of the last paragraph, starting with “and” on the last line—“and be deemed adopted forthwith by the committee”—that that would be deleted. That’s the proposed amendment. If there’s any discussion on the proposed amendment—we’re all fine with that. All in favour? That’s carried.

Then on the motion, as amended: any further discussion? Seeing none, all in favour? That’s carried as well.

Thank you very much. I think that wraps us up.

I should say as well that the clerk has just handed me this, just for the third party specifically, I guess, Mr. Natyshak: It is not a standing order that the questions need to be focused on the qualifications of the appointee, but it is the convention and the tradition of the committee. O’Brien and Bosc—have I pronounced that correctly? All right. I apologize for that.

Thank you very much. We’re adjourned.

*The committee adjourned at 1014.*

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First Session, 40<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Première session, 40<sup>e</sup> législature

# Official Report of Debates (Hansard)

Tuesday 29 May 2012

# Journal des débats (Hansard)

Mardi 29 mai 2012

## Standing Committee on Government Agencies

Intended appointments

## Comité permanent des organismes gouvernementaux

Nominations prévues



Chair: Bill Mauro  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES  
ORGANISMES GOUVERNEMENTAUX

Tuesday 29 May 2012

Mardi 29 mai 2012

*The committee met at 0901 in committee room 1.*

**The Chair (Mr. Bill Mauro):** Good morning, everybody, and welcome to government agencies. We have one intended appointee today. We have a few issues to deal with before we get to that, so, Mr. Kitchen, I'll just ask you to keep your powder dry there for a minute.

## SUBCOMMITTEE REPORT

**The Chair (Mr. Bill Mauro):** The first issue is a subcommittee report. Can I have a motion to adopt the report, please?

**Mr. Jim McDonell:** I move that the subcommittee report be received.

**The Chair (Mr. Bill Mauro):** Thank you. A seconder for that?

*Interjection.*

**The Chair (Mr. Bill Mauro):** Don't need a seconder. Any discussion? Seeing none, all in favour? It's carried. Thank you very much.

## INTENDED APPOINTMENTS

**Mr. Bill Mauro:** Item number 2 is a request for an extension of deadline for Yasmeena Mohamed, and the official opposition has something they would like to share with us on that. Mr. McDonell.

**Mr. Jim McDonell:** I'd like to ask for unanimous support for the agreement that—do you want me to read the whole? Ms. Mohamed was selected by the official opposition for review on the May 4 certificate. She has been out of the country until the past weekend and was not available to be scheduled. We must consider her for June 3, 2012—that is a Sunday. Pursuant to standing order 108(f)(11), with the unanimous agreement of the committee, we would like to extend the deadline, and I am requesting unanimous agreement to extend the deadline for her to appear before this committee.

**The Chair (Mr. Bill Mauro):** Any discussion? Concerns?

**Miss Monique Taylor:** I'm sorry, I didn't hear one word of what he said.

**Mr. Jim McDonell:** Do you want me to read it again?

**The Chair (Mr. Bill Mauro):** Please, yes.

**Miss Monique Taylor:** Sorry about that.

**Mr. Taras Natyshak:** Summarize it.

**The Chair (Mr. Bill Mauro):** He's asking for an extension for one of the intended appointees. It's listed as item number 3 on your—

*Interjection.*

**The Chair (Mr. Bill Mauro):** Oh, you don't have that. I'm sorry.

So Ms. Yasmeena Mohamed was an OIC selected by the official opposition to appear before us. She has been out of the country and unable to meet before us or be here and attend before us. Her appointment will lapse if we don't extend and allow her to come back to committee so that we can have her interviewed here. So the official opposition, who selected her from the OIC list, is asking for us to extend the deadline to allow her to appear.

Is there unanimous consent to allow that to occur? Any concerns? Okay. Thank you very much.

Item number 4 is the same issue for the May 18 certificate. Mr. McDonell, were you going to speak to that as well?

**Mr. Jim McDonell:** Yes, I'll read this. There were four selections for the May 18 certificate. These selections must be considered before June 17. As the House is expected to rise on June 7, there's not enough time to consider the intended appointments during this next meeting. Pursuant to standing order 108(f)(11), with the unanimous agreement of the committee, we can extend the deadline. I'm requesting unanimous agreement to extend the deadline to consider these intended appointees.

**The Chair (Mr. Bill Mauro):** Discussion? Do we have consent for that? Okay. Thank you very much.

## MR. ROBERT KITCHEN

Review of intended appointment, selected by official opposition party: Robert Kitchen, intended appointee as vice-chair, Ontario Labour Relations Board.

**The Chair (Mr. Bill Mauro):** Our first intended appointee today is Mr. Kitchen, who is here before us today. Mr. Kitchen, thank you for appearing today. You may make a brief statement if you wish. Any time that you use will be deducted from the government's time for questions. Each party will have up to 10 minutes, and when you're concluded, the questioning will start with the third party. Welcome, Mr. Kitchen.

**Mr. Robert Kitchen:** Thank you, and thank you for the opportunity to appear before the committee. It's my intention to make a brief opening statement.



I made my first appearance before the Ontario Labour Relations Board in 1976 as an articling student. Since my call to the bar in 1978, I have practised, with few exceptions, exclusively in the area of labour relations. There were many facets to that practice, but they focused on three principal areas.

First was providing ongoing advice and representation to employers with respect to the statutes which impacted the employment relationship: the Labour Relations Act, the Employment Standards Act, the health and safety act, among others. That involved, over the years, numerous appearances before the Ontario Labour Relations Board. I have appeared on virtually every issue which impacts upon employers, from certifications to unfair labour practices to successor rights and common employer applications to unfair reprisal complaints under the health and safety act.

The second area of focus was advising employers on the interpretation of collective agreements and representing them before boards of arbitration.

The third area of focus, and frankly, somewhat unique for a lawyer, was, over the years I have been chief spokesperson in over 350 sets of collective agreement negotiations. I believe that has given me a keen insight into the dynamic of labour relations.

As a result, I believe I am widely respected in the labour relations community for my knowledge and judgment, for my integrity and for my sense of fairness.

I'd be pleased to answer any questions you may have.

**The Chair (Mr. Bill Mauro):** Thank you, Mr. Kitchen. You used about four minutes. So, the government, should you wish to ask any questions, there'll be about six minutes left for you.

We'll start with the third party. Miss Taylor.

**Miss Monique Taylor:** Good morning. Thank you for being here with us today.

You have been serving employers for 33 years—

**Mr. Robert Kitchen:** Someone has to do it.

**Miss Monique Taylor:** Yes, I understand that completely. Being on the Labour Relations Board, how do you feel that you would be able to be impartial? Unions and workers will be coming before you, expecting an impartial hearing at that time.

**Mr. Robert Kitchen:** I strongly believe that every party to litigation should have a fair opportunity to present their case, and that case be given full consideration. My reputation in the trade union movement is one of being an effective problem solver. I think I will be viewed as impartial by the trade unions, and I'm very confident that I can be so.

**Mr. Taras Natyshak:** Thank you for appearing before us.

How can the OLRB more effectively deal with the high volume of cases that are currently before it?

**Mr. Robert Kitchen:** My short answer is, I don't really know. My dealings with the OLRB have been as counsel, so I am not aware of the inner workings of the board and how cases are assigned and things of that nature.

It would strike me, just as thoughts without any background, that effective mediation—

**Mr. Taras Natyshak:** What does that mean?

**Mr. Robert Kitchen:** Judicial intervention into disputes, with a view to assisting the parties in resolving their disputes rather than litigating.

I would also think that looking for opportunities to expedite hearings and the timely rendering of decisions would all assist. But, I confess, I don't know, because I don't know the workings of the board.

0910

**Mr. Taras Natyshak:** But I can tell you're aware that there is a backlog and anxious to dig in to the inner workings of the OLRB to take on that challenge.

**Mr. Robert Kitchen:** Well, yes. I'm from the labour relations community that the board serves, and I think that community wants two things: They want predictability and they want timely resolution of issues, and I'm very interested in assisting.

**Mr. Taras Natyshak:** In that same light, in terms of predictability and the timeliness of resolutions, I'd like to get your opinion on provisions within Bill 55—which is currently before us as the budget implementation bill—that state that if interest arbitration cases are not entirely completed within 12 months of being referred to an arbitrator, then the OLRB would take the case away from the arbitrator and take it on itself as a going concern. What are your thoughts about that provision, in terms of adding to, or potentially adding to, a backlog within the OLRB? Positives and negatives, I guess, I'm looking for on that type of provision.

**Mr. Robert Kitchen:** I'll confess, my practice was very significantly private sector-oriented. I have done some interest arbitrations. I think that the arbitrator community will take note of that legislation, should it be passed, and I think there a lot of good arbitrators out there who are hearing these cases. I think that they would be embarrassed to have a case taken away from them and referred to the board. I don't know, but my gut says that it would not substantially increase the workload of the board, because if I was an arbitrator, I wouldn't want a case taken away from me.

**Mr. Taras Natyshak:** Okay. I appreciate your thoughts on that. It conjures up some thoughts that the arbitration community—how much time do I have left, Chair?

**The Chair (Mr. Bill Mauro):** You have about three and a half minutes.

**Mr. Taras Natyshak:** Thank you—that the arbitration community would feel that this provision would undermine its ability and potentially even its credibility. We wouldn't want them to feel that pressure that could exist under this provision to fast-track any—really, to take a quick route around the need for comprehensive arbitration. So I'm pleased to hear your thoughts on that.

**Mr. Robert Kitchen:** And just to give you some perspective, there's a provision in the Canada Labour Code that says that a rights arbitration decision has to be delivered in 30 days.

**Mr. Taras Natyshak:** How often does that happen?



**Mr. Robert Kitchen:** Not often, but it does provide some motivation. It sends a message, I think, to those deciding the cases that timely resolution is important.

**Mr. Taras Natyshak:** And I'm sure we're all focused on that.

My last question is simply, can you identify some of the more pressing challenges faced by the OLRB at this point in time?

**Mr. Robert Kitchen:** Again, I have to say that I'm not overly familiar with the inner workings of them. I think that, given the fact, from reading newspapers, we are in a time of limited resources across the board—

**Mr. Taras Natyshak:** Don't believe everything you read in the newspapers.

**Mr. Robert Kitchen:** Oh, okay. The speedy resolution of issues is something that the labour relations community would like to keep on the forefront, but again, I'm speaking as a former counsel as opposed to one who knows the ins and outs of the board.

**Mr. Taras Natyshak:** I have no more questions, Chair.

**The Chair (Mr. Bill Mauro):** Thank you. Does the government want to use their time? They do. Ms. Jaczek?

**Ms. Helena Jaczek:** Thank you, Mr. Kitchen. Clearly, you've detailed your very long experience as a member of the labour relations community, as you've said, but what in particular motivated you to seek this position as vice-chair?

**Mr. Robert Kitchen:** I announced my retirement from the law firm in June 2010, to be effective at the end of February of this year. I really didn't know what I wanted to do after that, except teach skiing. In November, I was approached—and, frankly, I never thought about seeking a position with the board, nor was I aware that there was that possibility. In November, I was approached by a vice-chair of the labour board and the chair, both of whom are former union labour lawyers of some 30 years whom I've had cases against. I was advised of the possibility, and I was encouraged to think about it. As I said to my 20-year-old daughter, who doesn't know what she wants to do when she grows up, neither did I. I thought about it, and I thought that it would be a very interesting challenge. I believe that I can make a positive contribution, so I submitted my application.

**Ms. Helena Jaczek:** Thank you. Having had the opportunity to discuss the position a little bit with the chair and vice-chair, are there any particular challenges, then, that you think you can bring your skills to bear on? You've mentioned a couple of things from your perspective that you feel the labour relations community expects. Could you sort of expand a little bit on perhaps how you see your role?

**Mr. Robert Kitchen:** Well, I am looking forward to the role of an adjudicator. I have some experience in that area, having acted as nominee on boards of arbitration in both interest and rights arbitrations. I have, I think, a reputation of being an effective problem solver. I've resolved over the years probably far more than I've litigated,

on some very difficult issues. I think I have strong mediation skills, and I would bring those skills to the board.

**Ms. Helena Jaczek:** Thank you very much.

**The Chair (Mr. Bill Mauro):** To the official opposition. Mr. McDonell.

**Mr. Jim McDonell:** Thank you, and good morning, Mr. Kitchen.

**Mr. Robert Kitchen:** Good morning.

**Mr. Jim McDonell:** I see from your questionnaire that you're very qualified, and so it's more of just a discussion here. But I'm just wondering: You've had quite an opportunity to deal with the board, and I see that in their annual report, the board talks about how they are meeting their targets very well. Only 1% of the certification votes take over 10 days, 85% of their cases are settled by mediation, and 90% of appeals upheld the board decision. In your dealings, do you see the board as working as well as they claim, or do you see places for improvement?

**Mr. Robert Kitchen:** From appearing as counsel, I think that the board historically has, through their labour relations officers and on occasion the vice-chairs, made significant efforts to resolve cases. So I wouldn't quarrel with that 85% figure. I wouldn't quarrel with only 1% of votes not taking place within 10 days. The legislation, except in exceptional circumstances, requires it take place in five days, and I've never had one go beyond five days.

The board's issue is that over time its jurisdiction has expanded. Now it does the employment standards complaints—previously, that didn't fall with the board—and the occupational health and safety. So you're looking at expanding jurisdiction, and I don't know whether resources have expanded to the same extent as their jurisdiction, and that's a challenge.

0920

**Mr. Jim McDonell:** On these additional issues, have you been involved with those? Do they seem to be working through, other than possibly an issue of manpower?

**Mr. Robert Kitchen:** I'm sorry. I don't really understand the question.

**Mr. Jim McDonell:** On this expansion of duties, which can, I suppose, make up almost the majority of the work the board looks after, have you had any work with them or any occasion to be involved with those cases?

**Mr. Robert Kitchen:** Yes. My last case at the board was an unfair reprisal complaint under the Occupational Health and Safety Act. The vice-chairs at the board are very knowledgeable adjudicators, and I'm very satisfied with—no one is perfect, but on balance I'm very satisfied with my appearances before the board. I just wish I'd always won.

**The Chair (Mr. Bill Mauro):** Mr. Pettapiece?

**Mr. Randy Pettapiece:** That's what our life is too: We wish we could always win, but that doesn't happen.

Thank you for coming. I understand you're an expert in the duty to accommodate. You even teach courses on that subject. What can you bring to the OLRB from your

experience in that field? And does the OLRB approach of today in this regard satisfy the needs of employers and employees?

**Mr. Robert Kitchen:** Yes, I've taught many courses over the years. I once said that when I started, all I knew about the duty to accommodate was making a reservation at the Holiday Inn, because it wasn't introduced until 1981 or 1982.

From my experience, the board does not have a significant role in administering or adjudicating the duty to accommodate. That principally arises under human rights complaints, but it also arises under collective agreements before private arbitrators, so at least in my experience that's where I've dealt extensively with the duty to accommodate.

**Mr. Randy Pettapiece:** What do you see as a recent failure of the OLRB that you think needs addressing?

**Mr. Robert Kitchen:** From my perspective, I don't see a lot of failure. What I do see is an ongoing desire of the labour relations community to have timely resolution of complaints, and the nature of any complaint that I've heard over my years of practising has been in respect of scheduling, getting cases on, getting them heard and

getting them finished, because parties want a decision and want to move forward.

**Mr. Randy Pettapiece:** Thank you.

**The Chair (Mr. Bill Mauro):** Thank you very much, Mr. Kitchen. Thank you for appearing before us today. We appreciate your time.

**Mr. Robert Kitchen:** Thank you.

**The Chair (Mr. Bill Mauro):** Okay, we will now consider the concurrence of the intended appointment of Robert Kitchen, nominated as vice-chair of the Ontario Labour Relations Board. Ms. Jaczek?

**Ms. Helena Jaczek:** I move concurrence in the intended appointment of Robert Kitchen, nominated as vice-chair of the Ontario Labour Relations Board.

**The Chair (Mr. Bill Mauro):** Any discussion? Seeing none, all in favour? Opposed? Seeing none, it's carried.

Thank you very much. We are adjourned, although there is a subcommittee meeting immediately, so if we could have one member from each party remain for the subcommittee meeting starting immediately after adjournment, thank you all very much.

*The committee adjourned at 0925.*





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First Session, 40<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

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Tuesday 5 June 2012

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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GOVERNMENT AGENCIES

Tuesday 5 June 2012

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
ORGANISMES GOUVERNEMENTAUX

Mardi 5 juin 2012

*The committee met at 0845 in committee room 1.*

**The Chair (Mr. Bill Mauro):** Good morning, everybody. Welcome to government agencies. Normally we would deal with the subcommittee report first, but we're going to bump that to the back today because our appointee has somewhere to be. So we will move that to the back of the agenda, assuming that's okay with everybody, and we will deal with the one appointment that we have this morning.

## INTENDED APPOINTMENTS

## MS. YASMEENA MOHAMED

Review of intended appointment, selected by official opposition party: Yasmeena Mohamed, intended appointee as vice-chair, Ontario Labour Relations Board.

**The Chair (Mr. Bill Mauro):** Our first intended appointee is Yasmeena Mohamed, nominated as vice-chair of the Ontario Labour Relations Board. We'd ask her to come forward.

Ms. Mohamed, you may make a brief statement if you wish. Any time used for your statement will be deducted from the government's time. Subsequent to that, each party will then have up to 10 minutes for questions. Questions today will start with the government side.

Welcome, Ms. Mohamed, and thank you for being here. You can begin.

**Ms. Yasmeena Mohamed:** Good morning, members of the Standing Committee on Government Agencies. Firstly, I would like to thank you for accommodating me in my request for an early start. Secondly, I want to express my gratitude for considering my nomination as part-time vice-chair to the Ontario Labour Relations Board.

I currently practise as an arbitrator/mediator and a workplace investigator, I adjudicate labour and employment grievances, and I offer investigative services on workplace disputes and human rights issues.

Prior to my arbitration practice, I worked as senior counsel with the province of Ontario, where I have attained my expertise in the realm of public labour and employment law in addition to expertise in occupational health and safety, workplace safety and insurance, and benefits law.

My responsibilities included representing various ministries in labour litigation disputes. I provided legal advice to ministers, deputy ministers, directors and, in

particular, management and staff. I educated management on their rights and obligations in the realm of labour and employment, and I also drafted policies on workplace issues.

During my tenure with the province, I have attained strong litigation skills which included listening, analytical and advocacy skills, which are evident in the successful litigation of several high-profile and complex cases before the Court of Appeal, the Superior Court of Justice and various administrative tribunals and boards, including the Ontario Labour Relations Board, the public service grievance settlement board, the Grievance Settlement Board, the Human Rights Tribunal and the Workplace Safety and Insurance Tribunal.

In the year 2000 during my tenure with the province, I was selected to manage a project wherein a quasi-judicial administrative tribunal was set up. Although it was set up as a committee, it was akin to an administrative tribunal. The mandate was the adjudication of long-term disability claims. My responsibility as project manager included everything from negotiating the tribunal jurisdiction, the venue, the rules of practice and procedure, and the training of lawyers to appear before the tribunal.

The management of this project has provided me with an extensive working knowledge of administrative law and the operation of tribunals vis-à-vis procedural rules, time limits and jurisdictional limitations. In addition, it has taught me to be a team player and to work collaboratively with all stakeholders.

During my tenure with the province, I also was seconded to the Ontario Human Rights Commission as well as the Ministry of Correctional Services at the time. My responsibilities included the litigation of human rights complaints and providing legal advice to the commission. In particular, with the Ministry of Correctional Services, I provided one-on-one legal advice to the assistant deputy minister on all issues relating to labour practices and human rights complaints.

Prior to joining the province, I had my own private practice, which protected client interests in matters relating to labour employment and human rights. In particular, I appeared before the Ontario Labour Relations Board on issues relating to unfair labour practices and wrongful dismissals under the Employment Standards Act.

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As a result of my extensive work history within the labour field, I was selected in 2007 from hundreds of



nominees to participate in the Ministry of Labour's arbitration development program. I have successfully completed the program and I am now placed on the ministry's list of grievance arbitrators.

In addition, in 2010 I was appointed to the Human Rights Tribunal as a member and I currently adjudicate and mediate human rights disputes.

In 2006, I obtained my ADR, or alternative dispute resolution, certification through the University of Windsor law school. In 2008, I completed the arbitration development program with the requisite adjudicative training and decision-writing certification from the Society of Ontario Adjudicators and Regulators.

Augmenting my extensive professional experience, I am now a certified human rights trainer as well as an educator. I have provided a series of educational training to labour practitioners and professionals, most recently with respect to Bill 168 of the Ontario Occupational Health and Safety Act.

I am also actively involved in my community and several community organizations such as the International Relief and Development Fund and the Federation of Muslim Women.

My passion for labour and employment and human rights was inspired by my own personal experiences as a racialized person from South Africa, as well as my articling experience in South Africa whereby I appeared on behalf of unionized employees at internal security hearings on trials for the contravention of apartheid legislation.

With law degrees in both Canada and South Africa, and more than 25 years' experience within the field of labour employment, I bring a wealth of experience, knowledge and expertise on matters relating to labour and employment and human rights.

What's unique about my experience is, I have worked for both employers and employees, and therefore have a very diversified perspective on both employers' and unions' rationales and positions.

Adjudication within the labour field and mediation appears to be a natural progression for me, and certainly sitting on the Ontario Labour Relations Board will enhance and complement my years of experience. Considering my years of practice within this field—

**The Chair (Mr. Bill Mauro):** Ms. Mohamed, could I ask you to bring that microphone just a little bit closer, if possible? Thank you.

**Ms. Yasmeena Mohamed:** Sure. I apologize.

Considering my years of experience, I feel that I'm aptly suited to adjudicate labour relations disputes on the labour relations board.

Thank you. If you have any questions—

**The Chair (Mr. Bill Mauro):** Thank you, Ms. Mohamed. The government side has about three minutes left, if you so choose. Ms. Jaczek.

**Ms. Helena Jaczek:** Just very briefly—you've certainly outlined a great deal of your experience, Ms. Mohamed, and it's obviously very extensive, but you sound also like you have a very busy life. Was there a

particular motivating factor for you to apply? Further, how do you see balancing all your many activities?

**Ms. Yasmeena Mohamed:** In terms of motivation to apply, I've always—because of my experience, therefore the board has interested me. I've always sort of looked to the public appointments secretariat for any vacancies.

Just in terms of management of my time, at the Human Rights Tribunal, we're obligated to provide two days. I'm on the ministry's list of arbitrators, and they provide you with 20 days' notice in terms of if there is a hearing. In my own private practice, there's at least three to four months' notice. So I'm able to manage my time accordingly. I have enough notice to plan my time.

**Ms. Tracy MacCharles:** Thanks for being here today. What would you say are the top issues facing the board at this time?

**Ms. Yasmeena Mohamed:** To be extremely frank, I'm reluctant to answer that question, because I don't really have the facts before me in terms of what the board face and their internal issues. I really am not privy to that at this point because I'm merely a nominee at this point.

**Ms. Tracy MacCharles:** If I suggested that caseload and backlog might be an issue, any thoughts on how you would contribute to addressing that, along with your colleagues?

**Ms. Yasmeena Mohamed:** I guess caseload and backlog has always been an issue within the government. As well, as a litigator, just my experience is that, or even with the Human Rights Tribunal—my suggestions would be to find processes that would expedite the process, so, for example, a triage, a process where you would have the initial reviewing of the complaints and perhaps at that point make decisions in terms of whether these are trivial matters and need to be dealt with immediately or this is a matter that perhaps can be dealt with in an expedited way without the calling of evidence.

I know with the Human Rights Tribunal, they have summary proceedings where parties don't have to call evidence but can make submissions, if it's in the view of the adjudicator that this matter can just be summarily dealt with. Just on the presumption that those are the same issues, those would be my suggestions, to find an expedited process.

**Ms. Tracy MacCharles:** Thank you.

**The Chair (Mr. Bill Mauro):** Thank you, Ms. Mohamed. We'll turn now to the official opposition. Mr. Pettapiece.

**Mr. Randy Pettapiece:** Welcome and thank you for being here today, Ms. Mohamed. You've practised mediation and arbitration for quite some time. In examining your judgments, I see that you've adjudicated with great skill and common sense. As you perceive it, what is the scope of human rights legislation and enforcement in Ontario today?

**Ms. Yasmeena Mohamed:** What is the scope?

**Mr. Randy Pettapiece:** Yes, as you see it.

**Ms. Yasmeena Mohamed:** And enforcement. I actually think that it's a very broad scope. It covers various—particularly, just in terms of employment, it covers



a wide variety of situations, and I think that it has a great impact. I'm not too sure what you mean in terms of the scope.

**Mr. Randy Pettapiece:** I guess I'm just wondering if you think that the scope should be broadened or whether it's okay where it is right now as far as the human rights legislation, that type of thing.

**Ms. Yasmeena Mohamed:** I think it should be broadened. In fact, the Occupational Health and Safety Act has broadened the scope of the realm of human rights. With the Human Rights Code, it's just restricted to the enumerated grounds of discrimination, whereas the Ontario occupational health and safety has expanded it, so there's always room for expansion, I think.

**Mr. Randy Pettapiece:** Thank you.

**The Chair (Mr. Bill Mauro):** Mr. Walker.

**Mr. Bill Walker:** How are you?

**Ms. Yasmeena Mohamed:** Thank you.

**Mr. Bill Walker:** You hear often about the honest misuses of human rights law that happen in Canada and in Ontario, and I understand that the Human Rights Tribunal, which you sat on, is separate from the commission. What I'm really trying to get a sense of is, when you sat, what type of attitude did you really encounter? Did a bulk of the people who came in front of you have a sense of entitlement, or do you believe that most of the cases were real workplace troubles?

**Ms. Yasmeena Mohamed:** Frankly, I think they were real workplace troubles.

**Mr. Bill Walker:** So you're really dealing with practical stuff, not things that people are just looking at as, "This is the opportunity for me to go and get more"?

**Ms. Yasmeena Mohamed:** You know, you do get the odd one. To be honest, you do get the odd one where there's a sense of entitlement and perhaps it's a very frivolous claim, but 90% of the time—human rights is very, very subjective, so one cannot dismiss it. So 90% of the time it's a real workplace issue that has to be resolved.

**Mr. Bill Walker:** Great. Thank you.

**The Chair (Mr. Bill Mauro):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you very much, and welcome. My question for you comes out of your application. By way of your documentation, I see that you also applied for the chair of the Ontario Energy Board. I was just wondering what your motivation is with regard to seeking that position or this position of vice-chair.

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**Ms. Yasmeena Mohamed:** I really do want to expand on my adjudicative skills, so I was looking to tribunals that had the adjudicative function. The Ontario Labour Relations Board is a tribunal that I had applied to several times before; there were no vacancies. So I did not want to just limit myself to one tribunal. I want to continuously grow within this field. It's my next step from litigation, to be in the role of adjudicator/mediator. I believe that serving on boards will definitely enhance my practice as a private adjudicator.

**Ms. Lisa M. Thompson:** I see. Okay. Thank you for explaining that. In that light, how long do you see yourself serving in the role of vice-chair with the Ontario Labour Relations Board?

**Ms. Yasmeena Mohamed:** I guess definitely for the term that I'd be appointed for. But it really is my field of expertise, and I'm hoping that I can continue with it.

**Ms. Lisa M. Thompson:** Thank you.

**The Chair (Mr. Bill Mauro):** Thank you. Now to the third party: Mr. Natyshak.

**Mr. Taras Natyshak:** Ms. Mohamed, thank you so much for appearing before us. You have extensive experience as an arbitrator. I would almost qualify you as over-qualified for the position in terms of the scope of your experience.

Schedule 28 in the budget bill, Bill 55, states effectively that if an interest arbitration case is not entirely completed within 12 months of being referred to the arbitrator, the OLRB will then take over that case from the arbitrator. What are your thoughts on that type of schedule? As an arbitrator yourself, how would you feel—

**Ms. Yasmeena Mohamed:** You know, I'm very for timelines. I think that labour disputes should be resolved expeditiously and in the most cost-effective way. I truly do believe in that. So if private parties can't resolve their issues and apply to the board to have a resolution, I have no problem with that. I think timelines are really important.

I think as time passes, it's justice delayed, frankly. Labour is evolving. You have to address the issues when they happen. The relationship is an ongoing one, and people have to go back to work. So I'm really all for timelines.

**Mr. Taras Natyshak:** Would you imagine a scenario where that would undermine the arbitration process, insofar as the pressures of that timeline applying added pressures on to arbitrators in our community already? As a follow-up, obviously, additional resources would have to be allocated as well to the board to be able to deal with the higher volume of cases coming in directly to you.

**Ms. Yasmeena Mohamed:** Just on a personal level—I really don't know the workings of the board—I think that timelines are really important. As a section 48 and 49 adjudicator, I do grievances under the Labour Relations Act, and we have very strict timelines. We get a matter, within 20 days it's set, and then within a month we issue a decision. That, I think, provides a good forum for the labour community to get the issues resolved. Yes, it could be more resources for the board, but I think it will avoid backlogs.

**Mr. Taras Natyshak:** My colleague Mr. Pettapiece spoke about the scope of the OLRB. Any comment on resources at the front end within our Labour Relations Act in terms of it creating the backlog?

**Ms. Yasmeena Mohamed:** To be extremely honest, I'm not able to answer that because I really don't know the operational workings of the labour board at this point to make an informed answer.



**Mr. Taras Natyshak:** That's all right; thanks.

One aspect in the summary of your responsibilities under your background is the project manager and team lead for the joint insurance benefits review committee. It says that you built and set up from scratch the quasi-judicial JIBRC tribunal. It sounds quite innovative. I'm wondering if you can tie that into your experience and your credentials within the alternative dispute resolutions certificate. It sounds as though you bring an innovative approach. Any other ideas where you can identify some innovation within your experience, within your current knowledge of the OLRB—what goals, alternative measures? I'd like to hear some ideas, I guess, from you.

**Ms. Yasmeena Mohamed:** You know, for me, just in terms of ideas—

**Mr. Taras Natyshak:** Sorry. You pointed at a triage type of mechanism. That sounds innovative. So something along that—

**Ms. Yasmeena Mohamed:** Yes. I'm very for that. I'm working in the Human Rights Tribunal right now, and it works. We have a slew of complaints and we are able to sort them out in terms of those where we have a first-hand opinion that perhaps this is a frivolous claim; it hasn't fallen within the enumerated grounds; it has jurisdictional issues; there are issues with respect to the parties—to deal with that instantly, as opposed to setting a hearing date, coming to the hearing and then resolving all of these issues.

I'm really for a system that allows adjudicators to define the issues, to sort out the cases with merit as opposed to those that don't have merit—at first glance, on face value—and then have a process where you can further investigate and collect additional facts. The idea is not to take every case to a hearing, and in that way you are able to really effectively use your resources.

**Mr. Taras Natyshak:** Thank you for the questions.

**The Chair (Mr. Bill Mauro):** Okay. Seeing no other questions, Ms. Mohamed, thank you very much for being here today. We appreciate your time.

**Ms. Yasmeena Mohamed:** Thank you very much.

**The Chair (Mr. Bill Mauro):** So we have a concurrence motion. Ms. Jaczek?

**Ms. Helena Jaczek:** I move concurrence in the intended appointment of Yasmeena Mohamed, nominated as vice-chair of the Ontario Labour Relations Board.

**The Chair (Mr. Bill Mauro):** Is there any discussion? All in favour? Opposed? It's carried.

#### SUBCOMMITTEE REPORT

**The Chair (Mr. Bill Mauro):** Now we will deal with the issue of the subcommittee report. Ms. Jaczek, I understand you're going to move that as well?

**Ms. Helena Jaczek:** Yes. Your subcommittee on committee business met on Tuesday, May 29, 2012, to consider the method of proceeding on intended appointments during the summer recess of 2012, and recommends the following:

(1) That selections made from order-in-council certificates bearing a date between, and inclusive of, June 8, 2012, and August 31, 2012, be extended to September 30, 2012;

(2) That a meeting of the committee, pursuant to standing order 108(f)(13), be scheduled in July 2012 and in August 2012, as required, to consider the intended appointments selected for review; and

(3) That the clerk of the committee, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

Chair, perhaps we could have further discussion—

**The Chair (Mr. Bill Mauro):** Yes. I'm just going to ask if there's any discussion on that report.

**Ms. Lisa M. Thompson:** We support this.

**The Chair (Mr. Bill Mauro):** Ms. Jaczek.

**Ms. Helena Jaczek:** Yes. On reviewing this, certainly this is something that we looked at, and I think we did informally agree to. I think section 1 is a little bit problematic in that there could be some really urgent appointments coming through the summer, and we would not necessarily want automatic extensions of their order-in-council certificates, especially as, because of the House leaders' agreement, we know that we will be meeting for up to two days in June to hear the LCBO and up to two days in July on the WSIB. So our thinking, further to the House leaders' agreement, is that in fact we would potentially be able to tack any urgent appointments onto those dates. So I guess essentially we're saying that we would prefer not, in fact, to extend the order-in-council certificate blanket through to September 30. I know it's a change, but I just put that forward.

0910

**The Chair (Mr. Bill Mauro):** Ms. Thompson?

**Ms. Lisa M. Thompson:** Thank you, Chair. Could you give us some specific examples of the urgent appointments so we understand what you're talking about?

**Ms. Helena Jaczek:** We actually, from our side, simply know that there are a stream coming through the summer that will be taken forward to cabinet. The normal process is, there are 30 days within which there's the opportunity to select some of these candidates for interview here, as we've done today. The only information I do have is that there will be potentially chairs of boards and so on, and the feeling was that the blanket extension until September is not really necessary or in the best interests of getting those appointments made, which I think we all would agree is important—that our various agencies do have a sufficient membership.

**The Clerk of the Committee (Mr. Trevor Day):** If I could, just for the committee: Should the subcommittee report pass, what we put in the unanimous consent—because we thought this might be a problem; a blanket—was that if any member of the committee subsequently withdraws their agreement for a specific intended appointee, such withdrawals shall be made in writing to the clerk of the committee. We're not going to ask you to



unanimously consent in advance of seeing all of them. There is an opt-out provision, should you choose, in writing, to let us know. But that's up to the committee.

**Ms. Helena Jaczek:** From our perspective as putting forward the appointees, that's a useful opt-out kind of provision, but from our point of view, with number one, we wouldn't have any opportunity necessarily to just go ahead with the appointment, which is what the government does if the order-in-council certificate expires.

**The Chair (Mr. Bill Mauro):** It sounds like the government side is asking committee to consider the leading paragraph (1) on the subcommittee report so that certificates are not blanket-extended so that anybody who's appointed through an OIC—it's a 30-day window, correct? So if it goes beyond the 30 days, then, given this in the report, those people would not be able to do their work and the agency would basically not be able to go forward, I suppose. Or maybe they would, but—

**Ms. Helena Jaczek:** Well, there'd be a vacancy.

**The Chair (Mr. Bill Mauro):** But that OIC certainly wouldn't be able to part of whatever occurred. Did you also ask to consider tacking some of those appointments on to—

**Ms. Helena Jaczek:** We already have, in what is currently number (2), that the committee could meet to consider appointments in July and August. Since we already have two extra days, through the House leaders' deal in June, which we need to discuss further, we would be able to potentially do some in June and some in July, and we have the provision even in August. From our point of view, I think we'd prefer to do it that way.

**The Chair (Mr. Bill Mauro):** So we're all clear we're talking about the same thing: We're all familiar with the House leaders', the June stuff. Ms. Jaczek is asking to accommodate the OICs that may come forward, that they be tacked on to the back of the June piece that's in the House leaders' report. Is that correct?

**Ms. Helena Jaczek:** Correct. And we would have July and we would have August, as per number (2).

**The Chair (Mr. Bill Mauro):** If necessary.

**Ms. Helena Jaczek:** If necessary, if required.

**The Chair (Mr. Bill Mauro):** Is there any discussion on that? Mr. Pettapiece.

**Mr. Randy Pettapiece:** Thank you. How would that first paragraph read, then?

**Ms. Helena Jaczek:** I think we would just delete it.

**Mr. Randy Pettapiece:** Just delete the whole paragraph?

**Ms. Helena Jaczek:** It would be the normal process. There would be 30-day OIC certificates, and we wouldn't just extend. You would have the opportunity, obviously, to review those appointments and call them, and we would see them.

**The Chair (Mr. Bill Mauro):** Ms. Thompson?

**Ms. Lisa M. Thompson:** To that point: The meetings may have to run a little bit longer, but everybody's okay with that.

**Ms. Helena Jaczek:** That's exactly—if we're here, we're going to be here two days in June—

**Ms. Lisa M. Thompson:** Get it done.

**Ms. Helena Jaczek:** —up to two days, and up to two days in July. Why not make it worthwhile—

**The Chair (Mr. Bill Mauro):** Paragraph (2) seems to accommodate the need on the OIC. Your point is, why is paragraph (1) necessary? Okay, so—

**Ms. Helena Jaczek:** Just eliminate (1).

**The Chair (Mr. Bill Mauro):** There's agreement on that? The third party's good?

Then the question becomes, do we then—

*Interjection.*

**The Chair (Mr. Bill Mauro):** Okay, so let's deal with that amendment on the subcommittee report, which is to delete paragraph (1). Is that okay? Any discussion—

**Ms. Helena Jaczek:** Should I move the amendment of the subcommittee report to delete paragraph (1)?

**The Chair (Mr. Bill Mauro):** Do we need a seconder for that? No, we don't need a seconder.

All in favour of deleting—okay, thank you. That's carried.

*Interjection.*

**The Chair (Mr. Bill Mauro):** Well, I don't think we're finished with the report, or are we? Do we want to vote on it as amended, or do we need to deal with what—were you suggesting something else in terms of June 20?

**Ms. Helena Jaczek:** Well, I'm wondering if we could have some discussion on timing around the House leaders' report.

**Ms. Lisa M. Thompson:** Do we have those dates?

**The Clerk of the Committee (Mr. Trevor Day):** We have to decide those dates.

**Ms. Lisa M. Thompson:** Okay.

**The Chair (Mr. Bill Mauro):** What are you talking about?

*Interjection.*

**Ms. Helena Jaczek:** The LCBO and—

**The Chair (Mr. Bill Mauro):** So we need to deal with that. Before we pass this, my question is, do we need to—

**Ms. Helena Jaczek:** No, I think they're separate.

**The Chair (Mr. Bill Mauro):** Or we could deal with it at that time. They're separate.

Okay, so we will ask if there is any further discussion on the subcommittee report, as amended.

Seeing none, all in favour? Opposed? Carried.

Okay, thank you very much.

## COMMITTEE BUSINESS

**The Chair (Mr. Bill Mauro):** So now we have—I haven't got a copy—

*Interjections.*

**The Chair (Mr. Bill Mauro):** Okay, I guess this is a subcommittee meeting we're in now?

*Interjection.*

**The Chair (Mr. Bill Mauro):** We're still in full committee. Okay, does that matter? That doesn't matter? Okay.



What we're dealing with now is, the House leaders have come back—I don't know if everybody has a copy of this—to the Standing Committee on Government Agencies: "for the purpose of reviewing the operations of the Liquor Control Board of Ontario, on up to two days in June, and of the Workplace Safety and Insurance Board, on up to two days in July, on dates and in locations in Ontario established by the committee."

That's what we need to figure out here this morning, I suppose. There is some urgency to this. Two days in June is applying to the Liquor Control Board of Ontario, and as I read it, two days in July applying to the WSIB. I'm assuming that the "dates and in locations in Ontario" is applying to both agencies. That's what is before us, and we need to, as a committee, figure that out. Any discussion? We're looking for dates.

I think, Ms. Jaczek, you were suggesting that on some of the OIC stuff, maybe it could be piggybacked on one of these agency review days.

**Ms. Helena Jaczek:** Yes.

**The Chair (Mr. Bill Mauro):** Okay. Any discussion on that? Ms. Thompson.

**Ms. Lisa M. Thompson:** In terms of dates, we're coming back for June 20, so it would stand to reason that we utilize that week, if you will.

**The Chair (Mr. Bill Mauro):** For all of it? For what?

**Ms. Lisa M. Thompson:** For the two days.

**The Chair (Mr. Bill Mauro):** The two days in June.

**Ms. Lisa M. Thompson:** Yes.

**The Chair (Mr. Bill Mauro):** Okay.

**Ms. Helena Jaczek:** I think that would make obvious sense. So I guess it's a little question, perhaps, to the clerk. When we come back on June 20, what opportunity would we have on June 20 itself to meet?

**The Clerk of the Committee (Mr. Trevor Day):** On June 20 itself, if I'm reading the motion correctly, the House is still constituted. The day following, we are now in the adjournment and can meet whenever we want.

If we took, say, the two days after that, or something of that nature, that would put us into the recess. That would be when this kicks in and takes effect.

**The Chair (Mr. Bill Mauro):** I think the question is, though, on the day, on June 20, does anybody know how long we're actually sitting on June 20 and if we could do it the same day?

**Ms. Lisa M. Thompson:** I had heard half a day. Yes, half a day.

**The Chair (Mr. Bill Mauro):** Half a day, so we could do it on the 20th, even.

**Ms. Lisa M. Thompson:** Yes. What about the 19th and 20th?

**The Chair (Mr. Bill Mauro):** Or the day before.

*Interjections.*

**The Chair (Mr. Bill Mauro):** But it also says "up to two days." It doesn't say "two days." We can decide if you want to do one day or if you want to do two days. It doesn't have to be two days.

0920

**Ms. Lisa M. Thompson:** What's the normal? The agency makes the presentation for—

**The Chair (Mr. Bill Mauro):** The agency and then stakeholders, right?

**Ms. Lisa M. Thompson:** Yes.

**The Chair (Mr. Bill Mauro):** So the normal is?

**The Clerk of the Committee (Mr. Trevor Day):** In the past, it's been half-day agency, half-day stakeholders, and then when the House resumes—

**The Chair (Mr. Bill Mauro):** A half-day each. And a half-day means how many—three hours?

**The Clerk of the Committee (Mr. Trevor Day):** From 9 to 12.

**The Chair (Mr. Bill Mauro):** So a total, usually, of about six hours. So we can do it. It sounds like we're here half a day on the 20th. So we could do it. Recessing at 1:30, we could do it after on the 20th.

**Ms. Helena Jaczek:** What about in the morning of the 20th, though?

**The Chair (Mr. Bill Mauro):** Well, the morning of the 20th we're in there. We could be sitting here, though. We could actually be here—

**The Clerk of the Committee (Mr. Trevor Day):** That's not our day.

**The Chair (Mr. Bill Mauro):** It has to be Tuesday.

**Ms. Helena Jaczek:** Okay.

**Ms. Lisa M. Thompson:** Could we consider the full day on the 19th and then a half-day on the 20th?

*Interjections.*

**The Chair (Mr. Bill Mauro):** So you're saying we can't just meet on the 20th?

**The Clerk of the Committee (Mr. Trevor Day):** You can meet on the 20th, once the House adjourns.

**The Chair (Mr. Bill Mauro):** Once it adjourns. So we can't meet on the 20th. Okay. The clerk has just confirmed that we can't meet on the 20th, because Tuesday is the day, according to the standing orders, for this committee to meet until we adjourn, when we then can pick any day we want. So we could come on the 19th, the day before, and deal with the LCBO.

**The Clerk of the Committee (Mr. Trevor Day):** In the morning, during our regular time.

**The Chair (Mr. Bill Mauro):** Right, but deal with it completely, in its entirety, I'm saying. You're saying no to that?

**The Clerk of the Committee (Mr. Trevor Day):** We have up until 10:25 on that day.

**The Chair (Mr. Bill Mauro):** That's where I'm going. Why can't we—

**The Clerk of the Committee (Mr. Trevor Day):** This committee, when the House is in session, is allowed to meet Tuesday mornings.

**The Chair (Mr. Bill Mauro):** It's prescribed. So we can't go longer than that without a House leaders'—

**The Clerk of the Committee (Mr. Trevor Day):** Until the House adjourns, we're stuck to that.

**Ms. Helena Jaczek:** Then what about the Thursday after?



**The Clerk of the Committee (Mr. Trevor Day):** Not a problem: the whole day on Thursday.

**The Chair (Mr. Bill Mauro):** So, as a result of that explanation, Tuesday doesn't sound like it's an option—Ms. Thompson, you were suggesting Tuesday.

Wednesday at 1:30, the House adjourns. Then it's completely up to us to decide. We could do it Wednesday afternoon.

**Ms. Lisa M. Thompson:** And Thursday?

**The Chair (Mr. Bill Mauro):** But we need to go backward and decide how long you'll want. It says "up to two days." I think it was—was it the official opposition that called the LCBO?

**Ms. Lisa M. Thompson:** Yes.

**The Chair (Mr. Bill Mauro):** So do you want four hours? Do you want six hours? How much time do you want, before we make a decision on how long we're going to sit?

**Ms. Lisa M. Thompson:** I think, recognizing that we'll be calling the agency in as well as stakeholders, to be fair we need to be looking at about six hours.

**The Chair (Mr. Bill Mauro):** Okay. So we can do that on Wednesday, if we want, from 1:30 to 7:30, or we can spill it over to Thursday morning. If you want to make a suggestion on that, then there can be more discussion. This was the one you called.

**Ms. Lisa M. Thompson:** Actually, as we contemplate this, Mr. Chair, I was wondering if we could call a 15-minute recess so we can consult with our office and then get back to you.

**The Chair (Mr. Bill Mauro):** Sure. And can the third party have the same sort of—

**Miss Monique Taylor:** That was what I was just going to say. Can we move into the WSIB discussion, and then we can—

**The Chair (Mr. Bill Mauro):** Yes. Or do you want to do a 15-minute recess and then come back and do them both and consider—

*Interjections.*

**Mr. Taras Natyshak:** The WSIB is in July. We're looking at July, right?

**The Chair (Mr. Bill Mauro):** Yes. We can have the same discussion.

**Miss Monique Taylor:** Do we have any potential dates for July?

*Interjections.*

**The Chair (Mr. Bill Mauro):** Sorry, Miss Taylor. Did you want to deal with WSIB now and then we recess to allow them to discuss this, or—

**Miss Monique Taylor:** Well, if we can have a minimal discussion, the same as we did with the LCBO, and then we could take it back to ours at the same time as they're—

**The Chair (Mr. Bill Mauro):** Recessing. Okay. Do you have some suggestions then on what you'd like to see happening?

**Miss Monique Taylor:** I heard vacation at the end of July over there.

**Ms. Helena Jaczek:** One week. The first week after—obviously, we can find substitutes. It sounds, from our side, like the second week would be the best. How is it for you, Bill?

**The Chair (Mr. Bill Mauro):** It's July. It's Thunder Bay. What do you mean? Do you think I want to be in Toronto? Come on. We do what we have to do.

**Mr. Randy Pettapiece:** Near the first of July.

**The Chair (Mr. Bill Mauro):** Earlier is better. When is the long weekend?

**Ms. Helena Jaczek:** July 1.

**The Chair (Mr. Bill Mauro):** But what day does it fall on this year?

**Mr. Randy Pettapiece:** Sunday.

**The Chair (Mr. Bill Mauro):** It's on a Sunday this year?

*Interjection.*

**The Chair (Mr. Bill Mauro):** Well, I'm going to leave it to the third party. This was your call. Why don't you give us a suggestion?

**Ms. Helena Jaczek:** Could I just make one comment? It says "locations in Ontario"—

**Mr. Taras Natyshak:** My backyard.

*Laughter.*

**The Chair (Mr. Bill Mauro):** I'll bring the beer.

**Ms. Helena Jaczek:** So I just want to say, I don't think it's usual for this committee to travel.

**The Chair (Mr. Bill Mauro):** So what dates did you—

*Interjection.*

**The Chair (Mr. Bill Mauro):** We'll get to that, but let's deal with dates first. I think Mr. Natyshak was just about ready to focus.

**Mr. Taras Natyshak:** If we can find consensus on the first week, we can narrow it down. July 4 is staring me right in the eyes here.

**The Chair (Mr. Bill Mauro):** That's a Wednesday?

**Mr. Taras Natyshak:** It is a Wednesday.

**The Chair (Mr. Bill Mauro):** Again, it says "up to two days." Does it? Do you want two days? Do you want one day?

**Mr. Taras Natyshak:** Two days.

**The Chair (Mr. Bill Mauro):** Two days here in Toronto?

**Mr. Taras Natyshak:** Now we get to the question of travelling with the committee. Could those two days be in two different locations?

**The Chair (Mr. Bill Mauro):** Back to back? Did you say the fourth and fifth?

**Mr. Taras Natyshak:** Not necessarily.

**The Chair (Mr. Bill Mauro):** That's what we need to hear from you, so we can discuss it.

**Mr. Taras Natyshak:** I think that's enough information for us to take back to our people. We'll work with the fourth and fifth as our WSIB days—

**The Chair (Mr. Bill Mauro):** I missed the beginning of that. I'm sorry.



**Mr. Taras Natyshak:** We'll work with the fourth and the fifth as a reference point for the WSIB, and then we'll come back—

**The Chair (Mr. Bill Mauro):** So we're going to recess for 15 minutes and come back. Great. Thank you.

*Interjections.*

**The Chair (Mr. Bill Mauro):** You'll come back and let us know, even if you need two.

See you at about 9:45.

*The committee recessed from 0927 to 0949.*

**The Chair (Mr. Bill Mauro):** Okay, we will reconvene. Welcome back. Let's begin, I guess, with the official opposition and the LCBO on up to two days in June. Do we have a recommendation?

**Ms. Lisa M. Thompson:** Yes, we do. Respectfully, after reviewing what we would like to accomplish, we're thinking we would not be doing ourselves justice in doing a half day because one half day counts as a full day, so we'd be losing some hours there. We would like to come back and propose meeting on the 21st in the Niagara region and area and meeting on June 27 in Trenton and area.

**The Chair (Mr. Bill Mauro):** Any discussion? Ms. Jacek?

**Ms. Helena Jacek:** The 21st, the whole day, is going to be very difficult, I think, for the government side, given our commitment to meeting in Sudbury later on the 21st. Certainly the morning of the 21st, I think, would be fine. How many hours in total are you looking at? Perhaps if we could have some discussion around how many hours and then see how we could adjust—

**Ms. Lisa M. Thompson:** We'll have two full days. There are a variety of things to review with regard to the LCBO. We'd like full eight-hour days.

**Ms. Helena Jacek:** So eight hours—is that a day?

**Ms. Lisa M. Thompson:** Yes.

**Ms. Helena Jacek:** So you're saying 16 hours.

**Ms. Lisa M. Thompson:** Yes.

**Ms. Helena Jacek:** Okay, so we would have a bit of an issue, I think, with the whole day of the 21st. What about the afternoon of the 20th? Did you have any discussion—I'm wondering if we could get eight hours between the afternoon of the 20th and the morning of the 21st.

**Ms. Lisa M. Thompson:** I don't believe that would work, according to our clerk. Technically, that would be two days, and that's—

**Ms. Helena Jacek:** Okay, I see. Well, that's ridiculous.

**Ms. Lisa M. Thompson:** Yes.

**Ms. Helena Jacek:** Why do we have a silly rule like that?

**Ms. Lisa M. Thompson:** Thanks, Helena. Yes. Trevor?

**The Clerk of the Committee (Mr. Trevor Day):** I'm sorry.

*Laughter.*

**The Chair (Mr. Bill Mauro):** I'm not sure the other side understands completely the challenge that the gov-

ernment side has. You might want to expand on that a bit and see if they're amenable to a different date.

**Ms. Helena Jacek:** Our issue is, we have a caucus meeting early Friday, June 22, in Sudbury. Of course, there are events Thursday evening, and most people are driving. I mean, it's not completely impossible.

**The Chair (Mr. Bill Mauro):** So you're being asked to spend eight hours in Niagara on the 21st and then make your way to Sudbury—

**Ms. Helena Jacek:** Could we just have a little bit more on the location piece, just so we understand? Obviously, there's a cost that will be affiliated with that. Given that the headquarters of LCBO is here in Toronto—

**Ms. Lisa M. Thompson:** Yes, my understanding is, we're just getting clarification. With all due respect, it was the Liberal House leader who identified two days in June.

**Ms. Helena Jacek:** Yes, and we support our House leader.

*Laughter.*

**Ms. Helena Jacek:** Again, the issue of cost of travel: I just wondered if you had taken that into consideration.

**The Chair (Mr. Bill Mauro):** If I can, I don't think the issue of two days in June is the problem; the problem is June 21.

**Ms. Helena Jacek:** Yes.

**The Chair (Mr. Bill Mauro):** So I think what Ms. Jacek is asking is if there is any way you can work on a different day for the first day. It sounds like—was it the 28th, you said?

**Ms. Helena Jacek:** Yes, is there any way to do the 27th and a day—

**The Chair (Mr. Bill Mauro):** Or you could just choose to do one day.

**Ms. Lisa M. Thompson:** We'd like the full two days.

**The Chair (Mr. Bill Mauro):** Thought I'd throw it out there.

**Ms. Lisa M. Thompson:** Technically, we can still move forward on the 21st, and you would just have to excuse yourself. I'm looking to the clerk for clarification. Say we started off in Niagara region the morning of June 21. To make travel arrangements, if our Liberal colleagues have to excuse themselves from any hearings or stakeholder meetings etc. in the afternoon—is that doable?

**Ms. Helena Jacek:** I'm sure it's doable, but we wouldn't do it.

**Ms. Lisa M. Thompson:** Yes.

**The Chair (Mr. Bill Mauro):** That sounds, to me—I'm chairing this committee for the first time. That sounds, I would say, like an odd request, given that you—

**Ms. Lisa M. Thompson:** I'm just trying to figure things out here.

**The Chair (Mr. Bill Mauro):** Yes, and given that you know this is a very legitimate parameter that Ms. Jacek has placed before you—we're trying to accommodate—I mean, two days is two days. You've got from June 20 to



the end of June to find two days that work. It seems like it shouldn't be too difficult, given that as a parameter.

**Ms. Lisa M. Thompson:** The 21st and 22nd does not work for you.

**The Chair (Mr. Bill Mauro):** Right.

**Ms. Lisa M. Thompson:** So then we're down to five days.

**The Chair (Mr. Bill Mauro):** Well, no. Actually, the 20th in the afternoon works, here in Toronto; the 21st works, here in Toronto. So you're not down to five days; you have more than that. But your suggestion places a restriction on what days are an option. Well, it's unfair for me to put it that way—

**Ms. Lisa M. Thompson:** Yes, thank you.

**The Chair (Mr. Bill Mauro):** Given what they have as well, it limits the opportunity as well. Mr. Walker?

**Mr. Bill Walker:** Just one clarification: Are you able to break your days? Can you do a six-hour day and a 10-hour day?

**Ms. Lisa M. Thompson:** No.

**The Chair (Mr. Bill Mauro):** Well, yes, you could do a six—yes, you could.

**Mr. Bill Walker:** But if you're saying 16 hours, and you're doing it on two different days—

**The Chair (Mr. Bill Mauro):** That's right.

**Mr. Bill Walker:** —why can't you do six and 10?

**The Chair (Mr. Bill Mauro):** You can. Right?

**Ms. Helena Jaczek:** Could you?

**The Clerk of the Committee (Mr. Trevor Day):** As long as you know that those are your two days. There's nothing else.

**Mr. Bill Walker:** Yes, but we're asking for a total of 16 hours. So, to accommodate their travel, you could do a six-hour day on the 21st and do a 10-hour day on the 28th. You still get your 16 hours, and it allows them to travel.

**The Clerk of the Committee (Mr. Trevor Day):** The times within each day are totally up to the committee.

*Interjection.*

**Mr. Bill Walker:** What I asked was, can you do a six-hour day on the 21st and a 10-hour day on the 27th? You still get your total of 16 hours, and you get your—

**The Chair (Mr. Bill Mauro):** And allow you to go to Niagara Falls and back.

**Ms. Lisa M. Thompson:** So you're okay with six hours on the 21st in the Niagara region?

**Ms. Helena Jaczek:** I would think that could work, yes.

**The Chair (Mr. Bill Mauro):** What time would that start?

**Ms. Helena Jaczek:** If we started at 8.

*Interjection.*

**Ms. Helena Jaczek:** No.

**The Chair (Mr. Bill Mauro):** That'll be a detail we'll have to work out.

**Ms. Helena Jaczek:** Should this be referred to the subcommittee to work on the scheduling? We know what the parameters are.

**The Chair (Mr. Bill Mauro):** Yes, the detail of the time. Have we got an agreement on that, then? Six hours on the 21st—

**Ms. Lisa M. Thompson:** Yes, or we could go Monday, Tuesday, Wednesday of the following week.

**The Chair (Mr. Bill Mauro):** Monday, Tuesday, Wednesday?

**Ms. Helena Jaczek:** It's two—

**Ms. Lisa M. Thompson:** The Tuesday is not—

*Interjection.*

**Ms. Lisa M. Thompson:** I meant, there's a travel day in there.

**The Chair (Mr. Bill Mauro):** I see. So you're now suggesting—

**Ms. Lisa M. Thompson:** Maybe would the subcommittee consider the six-hour day on the 21st and the 10-hour day on the 27th, or see if the 25th and 27th—

**The Chair (Mr. Bill Mauro):** The 25th, 27th? Ms. Jaczek?

**Ms. Lisa M. Thompson:** Is that fair?

**The Chair (Mr. Bill Mauro):** Is that still working—

**Ms. Helena Jaczek:** I would personally much prefer the 25th and the 27th.

**The Chair (Mr. Bill Mauro):** Third party? Mr. Natyshak and Ms. Taylor?

**Miss Monique Taylor:** So we would have to travel on the 26th to get there for the 27th, and then travel again on the 28th, correct? So on the 25th we'd be in Niagara; travel on the 26th; on the 27th, we're in Trenton; and travel back on the 28th.

**The Chair (Mr. Bill Mauro):** Or you could do them back-to-back. I've been on committees before—you can—

**Ms. Lisa M. Thompson:** The 26th is not doable.

**The Chair (Mr. Bill Mauro):** What is it?

**Ms. Lisa M. Thompson:** The Tuesday is not doable.

**Miss Monique Taylor:** No, but that would be a travel day.

**Ms. Lisa M. Thompson:** Yes.

**The Chair (Mr. Bill Mauro):** The 25th is a Monday?

**Ms. Lisa M. Thompson:** Yes.

**The Chair (Mr. Bill Mauro):** So your suggestion now is the Monday—and there's a reason that Monday and Tuesday doesn't work? Is that what I heard?

*Interjections.*

**The Chair (Mr. Bill Mauro):** You often wrap up in one city, travel in the evening and then reconvene the next day. That's not unusual.

*Interjection.*

**The Chair (Mr. Bill Mauro):** One second, please. I'm sorry. I'm just trying to—

**Mr. Taras Natyshak:** Let's get this show on the road here.

*Interjections.*

**Ms. Lisa M. Thompson:** So the 25th and 27th.

**Mr. Taras Natyshak:** The 25th in Niagara and the 27th in Trenton? And we travel on the 26th?

**The Chair (Mr. Bill Mauro):** The 25th and 27th. So you're asking the LCBO to go to Niagara on the 25th?



**Ms. Lisa M. Thompson:** The 25th, Niagara region and area, and then the 27th would be Trenton and area.

*Interjection.*

**Ms. Lisa M. Thompson:** Can we work that out in the subcommittee?

**The Chair (Mr. Bill Mauro):** Ms. Jaczek?

**Ms. Helena Jaczek:** Yes. And I would like a cost estimate, Mr. Chair, of this excursion.

**The Chair (Mr. Bill Mauro):** Okay. So, to be clear, you're asking the LCBO to be in both of these locations. Is that what I heard?

**Ms. Lisa M. Thompson:** And/or stakeholders. The LCBO and/or stakeholders.

**The Chair (Mr. Bill Mauro):** The clerk will need to know. We're going to have to know what it is you expect.

**Ms. Lisa M. Thompson:** Yes.

**The Chair (Mr. Bill Mauro):** There has been a cost estimate requested as well. So you'll have to provide some clarity. Okay?

**Ms. Lisa M. Thompson:** Yes.

**The Chair (Mr. Bill Mauro):** Ms. Jaczek?

**Ms. Helena Jaczek:** Yes, just on the travel, because we are interested in the reasons for the need to go. I guess there's some understanding around stakeholders, but for the initial presentation I'm just finding it curious that we would go to this expense to go down, and I'm wondering if it sets a precedent. Really, my question then is to the clerk in terms of prior examinations of agencies by this committee, whether travel has been involved.

**The Clerk of the Committee (Mr. Trevor Day):** I looked into it, and I've been informed that prior committees have travelled to do site visits when doing agency reviews.

**Ms. Helena Jaczek:** I see. So is this potentially a site visit? I'm not familiar with where the LCBO—oh, okay. So this is Niagara-on-the-Lake or Niagara Falls?

**Ms. Lisa M. Thompson:** Niagara region and area, so yes.

**Ms. Helena Jaczek:** Okay.

Ms. MacCharles, perhaps you'd like to comment.

**Ms. Tracy MacCharles:** Just as your colleague clerks know, I think it's very important that any travel venues

be completely accessible for stakeholders as well as members of the committee. That includes dining facilities, washrooms, the whole shebang, please. It hasn't always been the case when travelling prior.

**Ms. Lisa M. Thompson:** And if I may, that doesn't preclude us from potentially bringing in the LCBO next week or when we're still meeting? We could potentially do that if we decide to do so—

**Ms. Helena Jaczek:** But that would use up a day. Isn't that a problem?

**Ms. Lisa M. Thompson:** No, I don't believe so, not before the House adjourns. The House is still meeting next week, so it would be a regular committee meeting, and then the focus is on site meetings and whatnot.

**The Chair (Mr. Bill Mauro):** Okay, but it says "up to two days in June for LCBO." Are you suggesting that you are now asking for them to come—

**Ms. Lisa M. Thompson:** Well, we could just figure out the logistics in the subcommittee. We're just citing that potentially; if you're worried about the LCBO and travelling, technically they could come in.

**Ms. Helena Jaczek:** I think our position would then be that that's one day. There are up to two days..

**Mr. Randy Pettapiece:** I'm not sure of that. I don't think that's right. Just hang on here. Is that right?

*Interjection.*

**Ms. Lisa M. Thompson:** Okay. Next week is completely booked, so we withdraw that.

**The Chair (Mr. Bill Mauro):** Just so we're clear before we move on to the WSIB: the 25th and the 27th, and you're going to let the clerk know that you want the agency to travel to Niagara and to Trenton. We will then, at subcommittee, deal with stakeholders and all that stuff. Any more discussion?

Third party, your suggestions on the WSIB piece?

**Miss Monique Taylor:** I would like to put it over until the next meeting, please, so that we have time to speak with our caucus when making any further plans. We have enough time.

**The Chair (Mr. Bill Mauro):** Okay. Any further discussion? No other business? Okay, we're adjourned. Thank you.

*The committee adjourned at 1003.*











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# Official Report of Debates (Hansard)

Tuesday 12 June 2012

# Journal des débats (Hansard)

Mardi 12 juin 2012

## Standing Committee on Government Agencies

Intended appointments

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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES  
ORGANISMES GOUVERNEMENTAUX

Tuesday 12 June 2012

Mardi 12 juin 2012

*The committee met at 0900 in committee room 1.*

## SUBCOMMITTEE REPORTS

**The Chair (Mr. Bill Mauro):** Good morning, everybody. Welcome to government agencies. For committee, we've got a full agenda this morning. We have three appointments, we have two subcommittee reports, and at the end of the meeting, time permitting, we need to make some decisions related to future OICs that are coming forward. We may have an opportunity to do that at the end today, depending on how things go, but I'll just mention that to committee now. You can guide and judge yourselves accordingly.

First, we have two subcommittee reports to deal with this morning. The first is the subcommittee report on intended appointments for June 7, 2012. Mr. Pettapiece.

**Mr. Randy Pettapiece:** Oh, we're going to do that one first, are we?

**The Chair (Mr. Bill Mauro):** Yes, we are.

**Mr. Randy Pettapiece:** All right.

**The Chair (Mr. Bill Mauro):** If you would move—

**Mr. Randy Pettapiece:** I move the adoption of the report of the subcommittee dated Thursday, June 7, 2012.

**The Chair (Mr. Bill Mauro):** Thank you. Any discussion?

All in favour? Opposed? Carried. Thank you.

The second subcommittee report is from yesterday, June 11, 2012. This report must be read into the record. Mr. Pettapiece.

**Mr. Randy Pettapiece:** Your subcommittee on committee business met on Monday, June 11, 2012, to consider the method of proceeding on agency reviews, and recommends the following:

(1) That the committee meet to conduct the agency review of the Liquor Control Board of Ontario (LCBO) on June 25, 2012, in Niagara Falls, and June 27, 2012, in Trenton;

(2) That the LCBO chair and/or CEO along with agency staff be invited to appear before the committee on June 25, 2012, at 10 a.m. and be allotted 30 minutes to make a presentation; and that each caucus be allocated 30 minutes for questioning, in rounds, following the presentation;

(3) That the committee meet from 1 p.m. until 5 p.m. on June 25, 2012, and from 10 a.m. until 12 noon and 1

p.m. until 3 p.m. on June 27, 2012, to hear from stakeholder groups;

(4) That stakeholders be allocated 10 minutes for a presentation; and that each caucus be allocated 10 minutes for questioning, in rounds, following the presentation;

(5) That the chair and/or CEO of the LCBO be required to appear before the committee on June 27, 2012, at 3 p.m. and be allotted 30 minutes to provide for an opportunity for rebuttal of stakeholders; and that each caucus be allocated 30 minutes for questioning, in rounds, following the presentation;

(6) That each caucus provide to the clerk of the committee a prioritized list of four stakeholder groups, plus two alternate groups, for the review of the LCBO, by 5 p.m. on Friday, June 15, 2012; and that one of the alternate groups be for Niagara Falls, and one of the alternate groups be for Trenton;

(7) That the committee meet on July 4, 2012, and July 5, 2012, in Toronto to conduct the agency review of the Workplace Safety and Insurance Board (WSIB);

(8) That the WSIB chair and/or CEO along with agency staff be invited to appear before the committee on July 4, 2012, at 10 a.m. and be allotted 30 minutes to make a presentation; and that each caucus be allocated 30 minutes for questioning, in rounds, following the presentation;

(9) That the committee meet from 1 p.m. until 5 p.m. on July 4, 2012, and from 10 a.m. until 12 noon and 1 p.m. until 3 p.m. on July 5, 2012, to hear from stakeholder groups;

(10) That stakeholders be allocated 10 minutes for a presentation; and that each caucus be allocated 10 minutes for questioning, in rounds, following the presentation;

(11) That the chair and/or CEO of the WSIB be required to appear before the committee on July 5, 2012, at 3 p.m. and be allotted 30 minutes to provide for an opportunity for rebuttal of stakeholders; and that each caucus be allocated 30 minutes for questioning, in rounds, following the presentation;

(12) That each caucus provide to the clerk of the committee a prioritized list of four stakeholder groups, plus two alternate groups, for the review of the WSIB, by 5 p.m. on Friday, June 22, 2012;

(13) That the clerk of the committee, in consultation with the Chair, be authorized, prior to the passage of the



report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

I move the adoption of this report of the subcommittee.

**The Chair (Mr. Bill Mauro):** Thank you, Mr. Pettapiece. Any discussion? Ms. Taylor.

**Miss Monique Taylor:** On number 8, we think it's quite important that the chair is there. That wasn't any part of the discussion of whether it would be the chair and/or CEO at subcommittee, so we would like to remove the "or" and have "and"—"chair and CEO".

**The Chair (Mr. Bill Mauro):** Simply rephrase it so that the invitation is specifically to the chair?

**Miss Monique Taylor:** And CEO, if possible. The CEO is—

**M<sup>me</sup> France Gélinas:** Right now, it says "and/or." Just take the "or" out.

**Miss Monique Taylor:** We would like both.

**The Chair (Mr. Bill Mauro):** Okay, fair enough. Any discussion on the amendment? Okay, thank you. On the amendment, any discussion?

**Miss Monique Taylor:** Did you want to do the same for the LCBO, or are you fine with "and/or"?

**Ms. Lisa M. Thompson:** We might as well be consistent. Yes, be consistent.

**The Chair (Mr. Bill Mauro):** Okay. Let's take them as one amendment. Any discussion on that, on the amendment? All in favour? Carried. All right, thank you.

On the motion, as amended, any further discussion? No. All in favour, on the subcommittee report? Carried. Thank you very much.

## INTENDED APPOINTMENTS

### DR. EMAD ELSAYED

Review of intended appointment, selected by official opposition party and third party: Emad Elsayed, intended appointee as member, Ontario Energy Board.

**The Chair (Mr. Bill Mauro):** Our first intended appointment this morning is Emad Elsayed, who is nominated as a member of the Ontario Energy Board.

Mr. Elsayed, any time that you take for your statement will be deducted from the government's time. We welcome you and thank you for being here this morning. Each party will then have up to 10 minutes for questions following your presentation. Questioning with the first witness this morning will begin with the official opposition.

Mr. Elsayed.

**Dr. Emad Elsayed:** Thank you. Mr. Chairman and members of the committee, good morning and thank you for taking the time to meet with me today.

I would like to start by saying that I am very honoured to be nominated to the Ontario Energy Board. I would like to briefly explain my interest in this position and my relevant qualifications and experience.

I have a master's and Ph.D. degree in civil engineering from McMaster University, and I am a registered professional engineer in the province of Ontario.

I spent over 30 years in various divisions of the energy sector, and I believe I can add value to the OEB's regulatory oversight process.

My main areas of expertise are energy production, project management, engineering and financial management. I also have significant experience in aboriginal affairs, environmental management and energy conservation. In addition, I have participated with a number of panels where adjudication and decision-writing were heavily involved.

I am a strong advocate for continuous improvement, operational efficiency and prudent financial management. I have successfully led several organizations through significant change.

In the energy production area, I successfully managed the hydroelectric division of Ontario Power Generation, which employs 1,100 staff at 69 generating stations across the province and produces 25% of Ontario's electricity. My strong focus on continuously seeking performance improvement opportunities has contributed to the excellent performance of that division to this day.

I've been able to work collaboratively with government agencies, regulatory bodies, trade unions and local community leaders. I also played a key role in OPG's initiative to improve relations with First Nations in northern Ontario.

In an OPG employee survey conducted in 2008, my group achieved the highest employee engagement score in the company.

I have strong analytical skills, and I firmly believe in fact-based, objective decision-making. I enjoy working in a team environment, and have been able to effectively manage and build consensus across large teams with diverse backgrounds.

I also enjoy volunteer work. I am currently a member of the board of directors of the Halton Children's Aid Society, and also on the board of directors of the John Howard Society of Hamilton and Burlington.

In summary, I have a strong, sincere interest in serving as a member of the Ontario Energy Board, and I believe that I have the necessary mix of qualifications and experience that would allow me to contribute effectively to the OEB's mandate.

Again, thank you for your time, and I am happy to answer any questions that you may have.

**The Chair (Mr. Bill Mauro):** Thank you, Mr. Elsayed. That will leave, if the government chooses to use it, six minutes for you. We'll begin with the official opposition.

**Mr. Randy Pettapiece:** Thank you for being here this morning.

Part of the OEB's mandate includes rate-setting for and distribution of natural gas. Among the many sources of energy households can rely on today, what is the role of natural gas in the near future? Do you see an ex-



ample—a greater number of households shifting from electricity to natural gas to save money?

0910

**Dr. Emad Elsayed:** Yes, natural gas, of course, has a significant role to play. Now, in terms of shifting from electricity to natural gas, that could be the case. As you know, in electricity, of course, there is less reliance on certain technologies because of environmental issues, so that may cause some of the gap to be filled by the natural gas industry.

**Mr. Randy Pettapiece:** Okay.

**Ms. Lisa M. Thompson:** Thank you for coming, Mr. Elsayed. As a follow-up to that, we all know Ontario needs to be an attractive place to attract business, where everyone knows that laws and contracts are obeyed and respected. So if you were a major gas company, would you agree that investing in major projects today in Ontario as we know it has become a riskier venture after the Mississauga and Oakville debacle? Going forward, how would you help to rebuild confidence?

**Dr. Emad Elsayed:** Well, like any business, I guess, the gas industry needs to have a stable environment for them to be able to take the risk of working in that area. So I think that the overall direction and the circumstances would have to be such that these companies are willing to invest in a stable environment.

**Ms. Lisa M. Thompson:** Okay. Would you agree or disagree that Ontario has become a riskier place to invest since the Oakville and Mississauga debacle?

**Dr. Emad Elsayed:** To some degree I would agree, but I think there are ways that this can be mitigated.

**Ms. Lisa M. Thompson:** Okay, very good. Thank you.

**The Chair (Mr. Bill Mauro):** Third party?

**Ms. Lisa M. Thompson:** Oh, one more.

**The Chair (Mr. Bill Mauro):** Oh, I'm sorry. Mr. Milligan, I'm sorry.

**Mr. Rob E. Milligan:** No, that's fine.

Thank you, Mr. Elsayed, for being here this morning. It's no surprise that both ourselves and the third party have called before this committee the appointees to the Ontario Energy Board. Hydro rates are climbing, and the government's energy policy is in need of a sharp change.

In his 2011 annual report, the Auditor General highlighted that the OEB only has control over about 50% of a consumer's bill. The other half consists of charges and taxes that are beyond the OEB's mandate. From your perspective, sir, what can the OEB definitively do to help ease the pain of Ontarians seeing their bills skyrocket?

**Dr. Emad Elsayed:** First of all, yes, I agree with you. The component that the OEB regulates—obviously, they have the mandate to look after the interest of the ratepayer in terms of managing the investments in these facilities. We have to realize, of course, that a lot of those facilities are reaching an age where significant investments have to be made, but that reflects itself in the bill eventually. One of the challenges of the OEB is to make sure that these investments are justified and planned in a way that the impacts on the consumer bills are managed.

**Mr. Rob E. Milligan:** Thank you.

**The Chair (Mr. Bill Mauro):** Thank you. Third party, Ms. Gélinas?

**M<sup>me</sup> France Gélinas:** Thank you. It's a pleasure to meet you, and thank you for coming to Queen's Park.

The first thing I'd like to talk to you about has to do with consumers who sign electricity contracts. Usually it's a door-to-door type of transaction, where somebody comes to your door and offers you a fixed-price contract. The Auditor General has found that people who did that have resulted in electricity costs between 35% and 65% more than people who did not. This is an area that is completely under the purview of the Ontario Energy Board. What would you do to help consumers?

**Dr. Emad Elsayed:** Well, I think there's first a need, of course, for consumers to be well educated about the risk. Obviously, if you sign a contract with one of those companies, it's a question of mitigating your risk by ensuring a certain price as opposed to taking the risk of paying market price. But I think what has been missing, maybe, is better education in terms of balancing the risk of doing that versus the possibility of overcharging if you sign one of those contracts and, of course, the duration that the contract is for. So better education, I think, would be—

**M<sup>me</sup> France Gélinas:** So this is the only role you see? The OEB should be educating? You don't see any regulatory or mandatory penalty to the energy marketers?

**Dr. Emad Elsayed:** No, I think it needs to be managed as well. It's both parties that need to educate the consumer, as well as having rules in place to make sure that the business of these marketers is done in a way that consumers are clearly aware of the risk that they are taking.

**M<sup>me</sup> France Gélinas:** This was one way where our electricity system has been privatized, where you see more and more. What are your views on privatization of other parts of our electricity system that are under the Ontario Energy Board?

**Dr. Emad Elsayed:** I think each case has to be considered for its own merits, I guess. But generally speaking, I think we've seen that the component of the electricity system that's in public hands has certain advantages and controls that are put in place to manage the effect on consumers. I think privatization has to be looked at from that perspective, because the ultimate mandate of the OEB, of course, is to look after the interests of the ratepayer, and what does that do to the ultimate impact on the ratepayer.

**M<sup>me</sup> France Gélinas:** From what you've told me, am I right in thinking that you are open to privatization, but you would look at it as to how does it benefit the consumer?

**Dr. Emad Elsayed:** Exactly, because our mandate as the OEB is to make sure that any decision that's made has a positive impact, at the end, to the ratepayer. That's our interest.



**M<sup>me</sup> France Gélinas:** In general, what would be the advantage or disadvantage of having it in public hands rather than private hands?

**Dr. Emad Elsayed:** I spent my whole career in a public company, and I can say, based on my experience, that our primary and only interest is to produce electricity for the benefit of the ratepayer. Obviously, a private company will have to benefit financially and make profits as a result. On the other hand, depending on your point of view, I guess, there are probably some efficiencies that maybe the private sector brings to the operation of such companies.

As I said, I don't want to make a blank statement. I think, generally speaking, you have to look at each case on its own merits.

**M<sup>me</sup> France Gélinas:** But for the OPA, where you worked, it serves the public well, and you see no use in privatizing this?

**Dr. Emad Elsayed:** Any decision has to take the interest of the ratepayer as the primary driving factor in making a decision like that.

**M<sup>me</sup> France Gélinas:** We could see from your resumé that you were the vice-president of the nuclear new build project. Do you see nuclear as a viable form of energy going forward?

**Dr. Emad Elsayed:** Yes, I think given the—obviously, having spent most of my career actually on the hydroelectric side, and that's a renewable form of energy, my interest has been to maximize the use of that because of its impact on the environment. However, in the province, we're running out of viable resources to develop in the water area, so nuclear obviously plays a significant part. But it has its own challenges that need to be managed, both in the short term and the long term. So, yes, it has a role to play but needs to be well managed.

**M<sup>me</sup> France Gélinas:** I live in the heart of the Canadian Shield. I'm not interested in being on top of a nuclear waste depot, just so you know. I come from Nickel Belt.

I also wanted to know, I'm curious to say—you think that we have tapped out all of the possibility of renewable hydro energy in—

**Dr. Emad Elsayed:** No, no. I'm aware of the fact that there are quite a number of sites that are still available, and OPG is looking at them. Some of the challenges that we have are that maybe in some remote areas where there is a lack of transmission facilities—in addition to building generation, you have to allow for transmission facilities.

But, yes, in answer to your question, there are still sites that have a good potential to be developed. In fact, there is an active project going on with OPG right now for the Lower Mattagami project, which is a significant development in the northeast to expand existing facilities up there.

**M<sup>me</sup> France Gélinas:** I'm going to bring you to Bill 75. Bill 75 would change the role that your organization has. Are you familiar with the changes that are proposed,

mainly into putting the plan together, who puts it together, who reviews it, who gives it its final okay?

**Dr. Emad Elsayed:** Yes, my understanding of Bill 75 is that it looks at the merger of the IESO and the Ontario Power Authority. It does seem to me that there are efficiencies in that version in the sense that the Ontario Power Authority is responsible for the long-term plan for the province. The IESO is responsible for the day-to-day operation, and having those together makes sense.

0920

As you know—you probably know—both these functions were initially part of Ontario Hydro, when we used to have Ontario Hydro. So yes, how it would affect OPG—I don't think it would have much impact on OPG, just the efficiency of having those two together, and I think it's the right move.

**M<sup>me</sup> France Gélinas:** I say I agree with you on the merger. Where I tend to have more worries about Bill 75 is when it comes to putting the plans together and the fact that the OEB won't have final say. It will be ministerial say. As well, the duty to consult will be changed. Your views as to how important it is to give people a say?

**Dr. Emad Elsayed:** It is very important, I think. My understanding, again, of the bill is that even though the approval would be by the minister, the OEB would have a significant role in reviewing and providing input before it gets approved. So it remains to be seen, but I would agree that it is very important that the OEB has a critical role in the review and recommendations—

**M<sup>me</sup> France Gélinas:** But who would be better suited to make a good decision? People at the OEB or a minister?

**Dr. Emad Elsayed:** Having not gone through the process myself, I guess it's difficult to say. But as long as, as I said, the OEB has the opportunity to provide input and to contribute to the content, then I think that would be okay. But that remains to be seen.

**M<sup>me</sup> France Gélinas:** I would say you're very politically wise in your answers.

**The Chair (Mr. Bill Mauro):** Ms. Gélinas, you have about one minute left to wrap up.

**M<sup>me</sup> France Gélinas:** Okay. So you worked in the public sector of the energy. Could you see the public sector taking on a bigger role in the energy file in Ontario?

**Dr. Emad Elsayed:** Having worked, obviously, in the generation part of the business, as I said earlier—at one time, of course, all the generation was in the public domain, and then there were some privatizations that took place. While some of these have introduced some efficiencies and some sort of competition, on the other hand, as you know, the rate structure in the province is such that there's more control of the rates charged by the public company.

It has its pros and cons. As I said earlier, it's a case where each circumstance would have to be judged by its own merit. I don't think I can make a blank statement one way or the other.

**M<sup>me</sup> France Gélinas:** No, but I'm looking to see, would you be in favour, if the conditions are there, of the



public side of the business to grow rather than the private side? Can you see a state of affairs that would lead us to that?

**Dr. Emad Elsayed:** Possibly, yes. It would probably be a good thing to have based on past experience.

**The Chair (Mr. Bill Mauro):** Okay, Mr. Elsayed, thank you. Ms. Gélinas, your 10 minutes are up, plus a little bit. Thank you very much for being with us here this morning. We appreciate it.

Government—oh, I'm sorry, I tried to reach you earlier. I thought that you were not going to. My apologies. Government side.

**Ms. Helena Jaczek:** I would just simply like to say thank you, Dr. Elsayed, for coming. From the government's perspective, we feel you're eminently well-suited to serve on the Ontario Energy Board. Thank you very much for coming.

**The Chair (Mr. Bill Mauro):** Thank you, Mr. Elsayed.

#### MR. JERRY FARRELL

Review of intended appointment, selected by official opposition party and third party: Jerry Farrell, intended appointee as member, Ontario Energy Board.

**The Chair (Mr. Bill Mauro):** Our second intended appointee today is Jerry Farrell. Mr. Farrell, could you please come forward? Mr. Farrell, you have, as well, 10 minutes for your presentation. Any time that you use will be deducted from the government's opportunity to ask you questions. When you are concluded, we will begin with the third party for questions. Thank you for being here this morning, and begin when you're ready.

**Mr. Jerry Farrell:** Mr. Chair and members, thank you for inviting me to appear before you today.

Let me introduce myself with a brief statement. I was called to the Ontario bar in 1970 and 15 years later to the Alberta bar. I started my career practising business law. By 1974, I expanded my practice to include energy law. By 1980, however, I focused my practice almost entirely on energy law. At that time, my practice involved both commercial and regulatory areas of the energy industry.

Within a few years, though, my emphasis was on the regulatory area alone. I have appeared as counsel, primarily for natural gas utilities, and later, electricity utilities, in more than 140 regulatory proceedings before federal and provincial tribunals. They were, for the most part, the National Energy Board and the Ontario Energy Board. My clients were customers of NEB-regulated utilities and OEB-regulated utilities.

I have worked both sides of the regulatory street, in other words, so I came to appreciate the interests of both utilities and their customers. I accordingly believe that I would act impartially as well as fairly in each proceeding before the OEB and in the subsequent decision-making process.

I am confident that I would be, as I said, impartial and fair. I would say that in terms of not only each party to a

particular proceeding but also in regard to the public interest.

My skills have been recognized by legal publications. Shortly before I retired from active practice, for example, I was designated as one regulatory lawyer who was "most frequently recommended in the oil and gas area," and as well, who was "repeatedly recommended in the electricity area."

I thank you for your attention. I'll do my best to provide complete answers to any questions you and your colleagues may have.

**The Chair (Mr. Bill Mauro):** Thank you, Mr. Farrell. That will leave seven minutes for the government, if they choose to use it. We will begin with the third party. Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** Good morning, Mr. Farrell.

**Mr. Jerry Farrell:** Good morning.

**M<sup>me</sup> France Gélinas:** Welcome to Queen's Park.

**Mr. Jerry Farrell:** Thank you.

**M<sup>me</sup> France Gélinas:** My first question is, I take it that you understand the role of Ontario Energy Board. That basically is there to protect the consumers. What you've presented this morning, and some of the background information that was prepared for us, really showed you playing a big role on what I would call the utilities side of the equation. How do you see this working out, now that you will have to be 100% trying to get the best deal for the consumers rather than the utility?

**Mr. Jerry Farrell:** I think that I mentioned sort of both sides of the street, and I didn't mean that facetiously. It's true that, particularly for electricity consumers, there's a role for the board, or a duty of the board, to protect the consumers' interest. It's not phrased exactly the same for natural gas consumers.

I would also remind you that, at least in my understanding, the board has a role to play in ensuring that the parties who own the utilities are treated fairly as well and, in that regard, that they are entitled to a fair return on their investment. So it involves protecting, if I could use that term loosely, not only consumers but also the owners of a utility.

**M<sup>me</sup> France Gélinas:** This is particularly what worries me. Could you explain to me how you have done this in the past?

**Mr. Jerry Farrell:** I have acted for utilities. I have also acted for customers of utilities, as I mentioned, so—

**M<sup>me</sup> France Gélinas:** Can you give me an example?

**Mr. Jerry Farrell:** Yes, I've acted for what is now Enbridge Gas Distribution, as a customer of TransCanada PipeLines, and Alliance gas pipeline. I have had testy relations, if I can put it that way, in the hearing-room context of protecting the customers—I want to say Consumers Gas, because it was that for a long time—of Enbridge Gas Distribution, making sure that the rates that TransCanada PipeLines, for example, charges are fair to the customers of Consumers Gas, because those rates are passed through, if I can use that expression, to Enbridge's customers.



There, in acting for a utility who is a customer of another utility, then I'm acting in the best interests, if I can put that term forward, of the customers of Consumers Gas, who in turn, indirectly, are customers of Trans-Canada.

**M<sup>me</sup> France Gélinas:** Have you got any experience at all dealing in the public sector end of the energy file?

**Mr. Jerry Farrell:** I have dealt with I guess what I've called the public interest, more so at the National Energy Board than the Ontario Energy Board, and in particular at a time when producers, in the main, wished to have export licences issued by the National Energy Board and approved by the federal cabinet.

One thing that was debated at length in the National Energy Board hearings until the late 1980s, when the rules changed, was the public interest and what was the public interest. At that tribunal, it was referred to as the national public interest.

0930

**M<sup>me</sup> France Gélinas:** But you've never been retained by a public utility, by a public energy—

**Mr. Jerry Farrell:** No.

**M<sup>me</sup> France Gélinas:** No.

**Mr. Jerry Farrell:** I think what you're asking me is if I act for—and forgive me when I say this—so-called public interest groups. No, I have not.

**M<sup>me</sup> France Gélinas:** When we looked at what we had in Ontario before and what has become the fragmentation of the different parts of the energy producing, transmission etc., some of it going to the private sector, some of it staying as public utilities, do you think that serves the ratepayers of Ontario well?

**Mr. Jerry Farrell:** I think that the answer is yes and no. Sorry, again, I don't mean to be facetious.

**M<sup>me</sup> France Gélinas:** No, that's quite okay.

**Mr. Jerry Farrell:** In some cases, it worked out well. For example, if my memory serves me right, I think that when the municipally owned electricity utilities were—I won't say privatized because they weren't; the ownership stayed the same. But there was a consolidation where somewhere around 270 municipally owned electric utilities are now somewhere in the range of 90. That consolidation, which I guess could be likened to a takeover, albeit not in the private sector necessarily, was a good thing.

I think that for many years, when the retail sales for both electricity and natural gas were seen to be by many governments—not just this one, but the previous ones—as being a good thing, because competition was seen to be a good thing for consumers. I don't think it's necessarily worked out that way.

**M<sup>me</sup> France Gélinas:** I would tend to agree.

Are you familiar with Bill 75?

**Mr. Jerry Farrell:** Yes, I have read it. I haven't studied it, but I have read it.

**M<sup>me</sup> France Gélinas:** I would say the consolidation of the two agencies is something that everybody is in agreement on. Where there's a little bit of dissension is more as to the planning process that is being modified by Bill

75. Where this planning process used to be squarely the responsibility of the Ontario Energy Board, now the Ontario Energy Board will advise, but the decision-making process will be in the minister's hands. Do you feel free to comment?

**Mr. Jerry Farrell:** My understanding is that the role of the Ontario Energy Board on paper has been reduced from what it was. I am not familiar enough with the prior regime, if I can use that term, to see just exactly how large or how rigid the board's mandate was in terms of approval of the ISP—you know what I mean.

**M<sup>me</sup> France Gélinas:** IESO.

**Mr. Jerry Farrell:** ISPS—whatever. Yes.

**M<sup>me</sup> France Gélinas:** The plan. We'll call it the plan.

**Mr. Jerry Farrell:** Yes. I have not studied it enough, I must say, to say whether the diminishing role of the Ontario Energy Board is a bad thing, period.

**M<sup>me</sup> France Gélinas:** In a file as complex as energy, do you figure the public has something to contribute?

**Mr. Jerry Farrell:** Yes. In terms of consulting and being consulted, yes, I do.

**M<sup>me</sup> France Gélinas:** Where does this consulting add value?

**Mr. Jerry Farrell:** I think it allows consumers, among others, who wish to have their voices heard an opportunity to do that. If they don't wish to do so, well then, that's their choice.

**M<sup>me</sup> France Gélinas:** In your line of work, had it ever added value?

**Mr. Jerry Farrell:** Yes.

**M<sup>me</sup> France Gélinas:** Can you give me an example?

**Mr. Jerry Farrell:** Yes. I'll go back to my export example, where there were a good number of public interest groups—so they were called—that explained why they thought there should be continuing oversight by not only the National Energy Board, but the federal cabinet. I think in many ways, their voices were taken into account by both the NEB and the federal cabinet. In other words, they weren't ignored.

**M<sup>me</sup> France Gélinas:** Which is always a good thing if they wanted to be heard.

My last question—

**The Chair (Mr. Bill Mauro):** Ms. Gélinas, you have one minute left to wrap up.

**M<sup>me</sup> France Gélinas:** It goes fast, eh?

**The Chair (Mr. Bill Mauro):** It sure does.

**M<sup>me</sup> France Gélinas:** My last question has to do with nuclear. If you were there for the first, I live in the heart of the Canadian Shield, and I wanted to have your view as to what part of the mix nuclear should play in Ontario.

**Mr. Jerry Farrell:** I don't feel qualified to answer that.

**M<sup>me</sup> France Gélinas:** Okay, fair enough. Thank you.

**The Chair (Mr. Bill Mauro):** The government side: Ms. Jaczek.

**Ms. Helena Jaczek:** Thank you very much, Mr. Farrell. Obviously you've had a lot of experience in energy law, and you are now retired from full-time practice,



as I see it. So only one question: What has motivated you to seek this position?

**Mr. Jerry Farrell:** It was actually a conversation, firstly, that I had with some colleagues in the energy law area who did respond to Knightsbridge, the board's recruiter, if I can call it that. They told me that they had recommended that I be contacted to see if I had any interest. So I was contacted initially to see whether I had any recommendations to make, and then I was asked whether I would consider that myself. I said I wouldn't be interested in a full-time position, because I now live in the Niagara peninsula—where I grew up, incidentally.

Then she asked if I had an interest in a part-time position, and I said that I really didn't know anything about a part-time position. So we chatted on the phone, and it just followed that if you want to come in and have an interview, you need to apply through the government—excuse me gentlemen and ladies, I would call it bureaucracy. In any event, one thing led to another, and I then became interested in a part-time position, not having really been aware of it before.

**Ms. Helena Jaczek:** Could you just connect your particular experience to the value you will bring, given the board's mandate?

**Mr. Jerry Farrell:** I've studied the board's mandate, because a lot of its mandate pertains to cases that I have been the lawyer on. I would like to think that my experience would bring value to the board and its ongoing positions, not only just the hearing process but I also have an interest in the work the board does in terms of position papers and things where board members work on developing something that doesn't require a fight, if you will, in the hearing room between parties with opposite interests. I think it has proven to be very valuable over the years where the board has chosen to use an informal process, if I can call it that, to develop processes that have tended to work very well, for the most part.

**Ms. Helena Jaczek:** Thank you.

**The Chair (Mr. Bill Mauro):** The official opposition: Mr. Pettapiece.

**Mr. Randy Pettapiece:** Thank you, Mr. Chair, and thank you, Mr. Farrell, for being here today. Most sources, including the Auditor General, say that Ontario generates too much power and has had to sell it or pay our customers to take it. This will be exacerbated by the new FIT projects coming online. You can't shut a nuclear plant or close a dam, for obvious reasons. We have too much supply, and we soon will have the highest energy prices in North America. We shouldn't be in this situation. How can the OEB act to help find us a way out of this mess?

**Mr. Jerry Farrell:** Well, I would hesitate to call it a mess, but I understand what you're saying. I think what you're asking me is, what would I recommend the government do to modify the Ontario Energy Board Act in a way that would relieve the current situation of too much energy from whatever source. I think that that, if you'll forgive me, is a political issue that is not something the

board can do. It is not the person who makes legislation or determines what public policy ought to be.

**Mr. Randy Pettapiece:** I can understand what you're saying now, too, but I would suggest that there might be some suggestions coming out of the OEB to help the process.

0940

**Mr. Jerry Farrell:** Oh, yes, indeed. I interpreted your question as being, "What could they do?" What could they recommend is certainly something that could come from the OEB.

**Mr. Randy Pettapiece:** And do you have any ideas on that at this time?

**Mr. Jerry Farrell:** I don't feel qualified to answer your question, sir.

**Mr. Randy Pettapiece:** Okay.

**Ms. Lisa M. Thompson:** One of the elephants in the room today, Mr. Farrell—and thank you, by the way, for being here—is the FIT and microFIT projects. The principles of these projects go against the tenets of common sense and even economics. For instance, the feed-in tariff program has totally stripped away local autonomy. Over and above that, there are people who have invested, in some cases their life savings, in microFIT projects only to be deemed constraints across this province, meaning they see their life savings invested in a solar panel that cannot be connected. In your opinion—I would very much appreciate hearing from you—what are the two or three things you would do to address the main issues that have evolved out of the FIT program and microFIT program?

**Mr. Jerry Farrell:** I'm not really familiar with the FIT program, although I do have some knowledge of what it was intended to do and how it was intended to work.

**Ms. Lisa M. Thompson:** So, in your opinion, has it worked, has it not worked, based on what you know? What would you do differently?

**Mr. Jerry Farrell:** I would think that the FIT program has caused the average price of electricity to be higher than maybe would otherwise be the case. I also would say—and I don't know the answer or whether someone would agree with me or not agree with me—that some people who made those investments made them out of their own choice. So I think that they need to help themselves as well as seek help from the government, with the recommendation of the board. But certainly it is something that, in my view, based upon what I know, is not working as intended.

**The Chair (Mr. Bill Mauro):** Mr. Milligan?

**Mr. Rob E. Milligan:** Yes. Mr. Farrell, thank you very much for taking time out of your schedule to be here today.

I hear and my colleagues hear over and over again, back in my riding especially as well, that the number one issue for consumers is the cost of electricity and the stability of that cost. The OEB's time-of-use rates can be confusing and often change. How can the OEB act in this



regard to give consumers certainty that their electricity rates are going to be stabilized?

**Mr. Jerry Farrell:** My understanding of the time-of-use regime is that if you consume electricity at certain times of the day, the price is less than it would be at other times of the day. I don't know whether the problem for consumers in terms of the level of electricity prices is something that time-of-use really affects if you choose to ignore the lower prices at a certain time of day and then complain about the higher prices at other times of the day. I don't know whether or not the price involved is higher no matter how you cut it. In other words, the lower price is also too high in the idea of some consumers, let alone what the price would be at a time of day that is not encouraged. I don't know whether that helps you understand what I'm trying to say, but I don't think it's just a simple thing. I don't think it's a one-trick pony, so to speak. It's not "If you change the time-of-use regime, things will be fixed." I don't believe that that's the case or could be the case.

**Ms. Lisa M. Thompson:** As a follow-up question to that, recognizing that the number one issue out in our ridings seems to come back to electricity over and over again, in your mind, as you prepare for an opportunity to sit on the OEB, what are some of the things that you have thought about to help alleviate that pain, to leave a few more cents in the consumers' pocket? I'm sure you've had to think about that. What are some of the things that you're willing and wanting to be proactive with, coming to the OEB, to help remedy that?

**Mr. Jerry Farrell:** I think the first thing I would want to do is to fully understand how the regime for electricity—I'm more familiar with natural gas—works and what was the rationale that led either the board, the utilities or a combination of both to have in place a regime that seems satisfactory to the utilities but does not seem satisfactory to users. I feel it would be premature of me to say, "This is what I would do to fix it," but I wouldn't say it was premature of me to try to understand it—the extent of the problem—and once I understand that, then what could be done to alleviate the problem.

**Ms. Lisa M. Thompson:** Okay. Thank you.

**The Chair (Mr. Bill Mauro):** Thank you, Mr. Farrell, for being here this morning. We appreciate your time.

**Mr. Jerry Farrell:** You're welcome, Mr. Chair and members. Thank you.

#### MS. ELLEN FRY

Review of intended appointment, selected by official opposition party and third party: Ellen Fry, intended appointee as member, Ontario Energy Board.

**The Chair (Mr. Bill Mauro):** Our third intended appointee today is Ellen Fry. Ms. Fry, could you come forward, please? Good morning, and thank you for being here. You as well have 10 minutes. Time you use will be deducted from the government. We will begin with the government, if time allows, when Ms. Fry is completed. Thank you, Ms. Fry.

**Ms. Ellen Fry:** Thank you very much. Good morning. Thank you for the opportunity to come here and introduce myself. As you may recall from the briefing materials you have on me, I am a lawyer. I also have an MBA. I have a lot of years of experience as a tribunal adjudicator, and right now, I work as a dispute resolution professional.

You will also have seen from the briefing materials that I do not have a background in the energy sector, but I believe I have a lot of other experience that will let me make a very strong contribution to the OEB. As I will get to later, obviously, it would be a priority for me to learn about the energy sector, and this should not be an issue for me.

I am an experienced tribunal adjudicator. I spent nine years as a member of the Canadian International Trade Tribunal, which is a tribunal that has a number of elements in common with the OEB. In my view, being an adjudicator in a body such as the tribunal I was at or the OEB is a distinct skill set. Many tribunal adjudicators learn that skill set on the job. I have the benefit of having already gone up that learning curve. I am, in a sense, pre-trained for that aspect of OEB work.

I've adjudicated cases to deal with market issues for many, many industries. I've dealt with many, many cases where there were competing interests to be balanced, as the OEB does, obviously. I've dealt with many, many cases on regulatory issues, on cases involving business issues, cases where public policy issues had to be taken into account. In those respects, I think there is a lot of basic commonality about the types of things that I have done in my experience as a tribunal member as compared to the work of the OEB.

I also should mention that I've done cases that had a lot of lawyers. I've also done cases where there might have also been a lot of lawyers, but there were also unrepresented parties who needed to be dealt with very fairly in process terms.

I have been very active in the tribunal community. I was active in the Council of Canadian Administrative Tribunals, commonly known as the CCAT. I've done training for tribunal adjudicators many times. I've done a lot of educational presentations in both the public and private sector for tribunal members, lawyers and law students. I've even presented on tribunal processes to several international delegations. I've also been involved in processes to make tribunal processes more efficient, which is something that all tribunals, in my view, would normally be dealing with in the process of continuous improvement because, of course, tribunals are by definition process-focused.

The second area of my experience that I think would be very helpful to the OEB is I have a lot of experience in regulatory issues and in administrative law issues. As a member of my former tribunal, I lived those issues every day, but my experience is deeper than that. I spent about 20 years as a lawyer advising federal government departments, and of course, those types of issues come up all the time.



I should mention that I am very familiar with environmental issues. I was the director of the legal department at Environment Canada. Of course, that not only makes me comfortable with environmental issues, which do come up, obviously, at the OEB, but I can tell you that in the field of environmental issues, there's a lot of balancing of different interests to be done.

0950

The last area of my experience I want to talk about that I think would be very useful to contribute to the OEB is my experience in what I would call market issues. When I say market issues, I'm talking about the whole market. I'm talking about the industry; I'm talking about the consumers, who take the product of the industry; I'm talking about the suppliers to the industry. So I'm just using that as shorthand.

I adjudicated cases with lots of market issues at the Canadian International Trade Tribunal. Even before that, I had a considerable depth of experience. I started my career as a lawyer way back when. I did big commercial files for the federal government. I don't know if you can cast your mind back that far, but if you're looking at some of the big projects I worked on in the Toronto area, I worked, for example, on the funding agreement whereby the federal government gave some money to build the Metro Toronto Convention Centre. I was also a lawyer for Transport Canada to do the agreements when the private sector built Terminal 3 at Toronto airport way back when.

Now, as I mentioned at the beginning, obviously it would be my priority to learn about the energy industry. I would say that if you look at my track record of learning new things, it's very clear that this won't be a problem for me. When I became a member of the Canadian International Trade Tribunal, which works in a framework of trade law, I didn't know anything about trade law; I learned on the job. When we did anti-dumping cases at that tribunal—each anti-dumping case is focused on a specific industry, and sometimes the industries repeated from case to case and sometimes they didn't. So you had to learn enough about the industry in the particular case in a short period of time—at least about the basics—to do the case effectively. To give a couple of examples: Literally, one month I might be learning about the industry that manufactures steel pipe for oil and gas wells. The next month, it might be the industry that manufactures bicycles or baby food or replacement windshields for cars. So you had to learn very quickly.

Casting back even further, long before that, I became the director of the legal department at Environment Canada at a point when I knew nothing about environmental law. I learned it all on the job. So I think my track record shows that I'm very effective at learning new industries. This will not be a problem for me.

To summarize, I am very interested in doing work as a tribunal adjudicator in a tribunal such as the OEB, that has this kind of very good fit for my type of background and experience. I believe I'm good at it, and I believe that I will learn quickly about the energy industry. But I do

believe that my current experience will also let me make a strong contribution.

Thank you. You will have questions.

**The Chair (Mr. Bill Mauro):** Thank you, Ms. Fry. The government has just under two minutes left.

**Ms. Helena Jaczek:** No questions, but simply to say, Ms. Fry, thank you very much for being very clear on your particular credentials and the skills and experience that you will, hopefully, bring to this position. I think you're extremely well qualified.

**The Chair (Mr. Bill Mauro):** Official opposition: Ms. Thompson?

**Ms. Lisa M. Thompson:** I appreciate very much you coming in today, Ms. Fry. I found it refreshing to hear you say you learn on the job. Clearly, you have a lot of confidence, moving forward.

But we need to step back for a minute, and I'd like to revisit two things. Bill 75 is merging IESO and OPA without adding any accountability whatsoever, so they could do what they want, when they want. For instance, appointees to IESO and OPA are immune from our summonses like you've had to respond to today. The interaction between OPA, IESO and OEB is very complex, and it seems that any given day, everyone seems to have a finger in somebody else's pie. Complicate that with the fact that the Auditor General highlighted that the government had a very heavy-handed approach to energy policy between 2007 and 2011. There was significant intervention into OPA's and OEB's areas regarding the integrated power system.

Recognizing that you enjoy learning on the job and you're very good at what you do, and I think you respect the sense of accountability and having parameters set and being able to move forward within that, if you sensed or experienced interference from the new entity—the combination of IESO, OPA, and/or the government—what would you do to mitigate that so that you were unencumbered to move forward and work on behalf of the best interest of OEB?

**Ms. Ellen Fry:** Okay, I just want to make sure I understand your question. You're contemplating a situation of attempted interference with OEB decisions?

**Ms. Lisa M. Thompson:** Yes.

**Ms. Ellen Fry:** Well, if I personally experienced a situation like that, probably one of the elements in what I would do would be to have a discussion, obviously, with the chair of the OEB, because the OEB has a legislated mandate and the OEB must stay within that. It is an independent mandate subject, obviously, to the minister's power to make directives, and they need to report to the minister and so on. But generally speaking, it's a mandate to make independent decisions, and this is very fundamental, and that must occur. As I say, if a particular situation arose, I think one of my first steps would be to discuss the appropriate way to deal with it with the chair.

**Ms. Lisa M. Thompson:** That's refreshing. Thank you.

**The Chair (Mr. Bill Mauro):** Mr. Pettapiece? No?



**Mr. Rob E. Milligan:** Yes, I'd like to talk about red tape. It costs businesses money and the cost is always passed on to the consumer. Changes to electricity rates must be vetted through a process that involves expensive paperwork, public hearings and depositions from many groups that travel at the operator's expense. The costs are enormous. Is there a way to fix this process and make it better value for money without compromising public input into rate setting? Would you believe that?

**Ms. Ellen Fry:** I believe that every tribunal can always streamline its processes a little bit more every day. Because tribunals are so process-focused, there's no such thing as having a perfect process. Now, the OEB in particular has a number of mechanisms in its framework—it's very fortunate that way—to allow it to take measures, depending on the situation, to streamline tribunal processes. For example, the OEB can cut down hearing time by dealing with some issues in a simpler way before the hearing. It can send interrogatories ahead of the hearing to get some information in advance that perhaps might otherwise be an issue that comes up at the hearing. There are a number of mechanisms in existing OEB rules that can be used in the appropriate case to streamline things.

Now, as you pointed out, there are trade offs. A tribunal is supposed to have a simpler, more efficient, less formal process than a court, but a tribunal also has to be fair, as you pointed out, to everybody. Sometimes, in order to be fair, you have to increase process. For example, if counsel for a party says, "I really need two weeks to file submissions on X," you might need to take that extra two weeks, which adds time and expense for everybody potentially, to be fair, so you're always balancing fairness and efficiency. But, yes, as a general proposition, there is no such thing, in my view, as a tribunal being perfectly efficient. They always need to be working to tune things up and streamline things more.

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**The Chair (Mr. Bill Mauro):** Mr. Pettapiece?

**Mr. Randy Pettapiece:** The OEB deals with complaints against operators, and the Auditor General showed that little or no action is taken on the complaints against energy operators received by the OEB. How will your experience help change that?

**Ms. Ellen Fry:** I don't think that that's a question that I would feel qualified to answer. I think that would be a question, among other things, for the chair of the OEB as to how she would wish to handle those issues.

**The Chair (Mr. Bill Mauro):** Okay. Third party, Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** Welcome to Queen's Park. Before I go into the question that I wanted to ask, it's the first time that I hear the OEB referred to as a tribunal. What brought you to link the two?

**Ms. Ellen Fry:** Lawyer-ese. What can I say? Technically, it's an administrative tribunal because it's making adjudicative decisions. It's just technical terminology.

**M<sup>me</sup> France Gélinas:** All right. Interesting.

I want to come back to the question that was just asked by my colleague and put it into a little bit more context. The fixed-price contract that a lot of Ontarians have signed has resulted in electricity costs between 35% and 65% more than if they had not signed an energy contract. Those usually happen when you have somebody knock on your door, ask to see your hydro bill and say "Here, I have a contract to offer to you." People sign and then down the road—the Auditor General did an audit and found that those people paid between 35% and 65% more. That was a decision of the OEB to allow those marketers to offer fixed-term contracts. I'd like your opinion on that situation.

**Ms. Ellen Fry:** Unfortunately, I don't think it's appropriate for me to comment on that specific situation, but perhaps I can help a little bit by talking about general principles. Obviously, any OEB decision—the members who make the decision on the information that they have and the positions that they hear are required to make an independent, neutral, objective, transparent decision. I'm not familiar with that particular decision but I'm sure that those are the principles that were followed. What I can say—again, I'm sorry; I really don't think I can go into the substance of your question—if there were subsequent decisions that needed to be made on that, if I were on the panel making the decision I would strive very hard to follow those objectives in making my decision.

**M<sup>me</sup> France Gélinas:** So you haven't got an opinion as to people having signed contracts where they pay 35% to 65% more. The Auditor General did make recommendations to the OEB that this be looked at. He certainly thinks that enforcement action should have been taken. So you have a directive from the Auditor General, who's an independent officer of the Legislature reviewing your agency, which is the OEB—we call it an agency, not a tribunal—reviewing the OEB and telling the OEB, "Those are my findings," and he finds that you haven't done enough enforcement action on those. How would you respond to the Auditor General?

**Ms. Ellen Fry:** Well, I guess—again, I know this isn't very satisfactory to you on the substance—I don't know how I would respond to the Auditor General because I'm not aware of what action the OEB has taken or is planning to take to respond. I'm sure there is some action; it's just that I am unaware of it right now.

What I would also say of course in general terms is the situation you're talking about is about balancing interests. There are the consumers who are being urged to buy things at the door, buy plans at the door, and there is the industry that's selling it. There are two kinds of interests there; both have to be taken into account in an appropriate and a fair way.

**M<sup>me</sup> France Gélinas:** Would you see a point where you would say this has not served the public good; we're taking that part of the industry out of the mix?

**Ms. Ellen Fry:** Well, again, I would say that my role as a member of the OEB is to work within the existing policy legislation regulations as they are, not to express my views on what the policy should be.



**M<sup>me</sup> France Gélinas:** It's not policy; it's a decision of the board.

**Ms. Ellen Fry:** If the board made a decision, I'm confident that the board is taking appropriate measures. I'm not aware of what is occurring there.

**M<sup>me</sup> France Gélinas:** Okay.

What attracted you to the energy file, given your background?

**Ms. Ellen Fry:** That's a very good question. I'm very interested in adjudication. It's a kind of work that suits me, as you've heard. I have a lot of experience. I think the energy board is a very good fit for my experience because of the various elements I was talking about: the business market element, the regulatory element, the competing interests, the public policy. Although I haven't worked in the energy field per se, I've worked in a field where all those very basic elements are there, so I think the OEB would be a very good fit for my background.

**M<sup>me</sup> France Gélinas:** If the government was to direct the OEB to look at bringing power more into the public hands and away from the privatization that has taken place—there's a change of government; new policy rolls out—how comfortable would you be in a process where there is no fairness; it is a government decision to take away the activities of the private sector to bring it back into the public hands?

**Ms. Ellen Fry:** Well, the OEB has to work within its legislative framework, and its legislative framework says that the minister, among other things, can give it certain directives. So if, as you say, the minister gave a directive, it's the OEB's job to follow that directive. I guess I would always be comfortable doing my job as set out in the legislation.

**M<sup>me</sup> France Gélinas:** So it didn't matter which direction it took, if the directive was to completely privatize every aspect of the energy production, transmission etc., you would be just as comfortable with that?

**Ms. Ellen Fry:** I would always be comfortable, as a member of the OEB, in working within my legislated framework, yes.

**M<sup>me</sup> France Gélinas:** Do you have any view on the use of nuclear power?

**Ms. Ellen Fry:** No, I do not.

**M<sup>me</sup> France Gélinas:** None whatsoever?

**Ms. Ellen Fry:** None whatsoever.

**M<sup>me</sup> France Gélinas:** Okay. You are aware that this tends to be a very polarized file where some groups are very pro, some groups are very opposed, having worked in the environmental file, but you have no opinion?

**Ms. Ellen Fry:** Again, the job of the OEB—I hate to repeat myself—is to make objective, neutral decisions based on the information in front of it. The legislation says, of course, here are the interests you consider in the OEB, so it has to balance those interests, yes, and obviously I am aware that that is a file with competing interests and it's certainly not the only one with competing interests that the OEB deals with.

**M<sup>me</sup> France Gélinas:** Let's say something derails in the process, and it is within your purview. What happens then?

**Ms. Ellen Fry:** Can you—

**M<sup>me</sup> France Gélinas:** As in, you've listened to the competing interests, you make a decision, it rolls out, and as it rolls out, it completely derails. People don't like it; there is big pushback; the government is not happy with what you've done. How do you handle that?

**Ms. Ellen Fry:** Again, the OEB is a creature of legislation. It has to work within its framework. In its framework there are, for example, I believe, mechanisms for appeal or perhaps possibilities for people to bring new applications to the OEB if an unforeseen problem is arising. The OEB has to work within the mechanisms of its framework, and if there are extreme results, potentially, as you were suggesting, I'm sure there are people out there who will figure out a way within the framework to—

**The Chair (Mr. Bill Mauro):** Ms. Gélinas, you have one minute left to wrap up.

**M<sup>me</sup> France Gélinas:** Okay. Then I want to go back to your extended experience on the trade tribunal. How do you figure the people of Ontario, through the Ontario Energy Board, can benefit from the knowledge, skills and experience you have?

**Ms. Ellen Fry:** Well, again, I would look at the generic types of experience. If you look at the basic adjudicator skill set, I have that. So the people of Ontario would benefit on day one from someone who is fully trained as an adjudicator, rather than having to go up that learning curve. They would benefit from someone who has dealt with this industry but a lot of other industries in the market; who has dealt a lot with industry financials, competition and so on; who has dealt with competing interests; who has dealt with lots of regulatory issues; who is familiar with environmental—

**The Chair (Mr. Bill Mauro):** Ms. Fry, I'm going to have to thank you for your answers and ask you to wrap up there. The time is up. We appreciate your being here this morning. Thank you very much.

Given that all three appointees are to the same agency, is it the will of committee that we deal with the concurrences all at once, or do you prefer to deal with them individually? Is all at once good with you? Everybody's fine with that? Okay.

We will now consider the concurrences for Emad Elsayed, Jerry Farrell and Ellen Fry, all nominated as members of the Ontario Energy Board. Ms. Jaczek, you're going to move concurrence?

**Ms. Helena Jaczek:** I move concurrence in the attended appointments of Emad Elsayed, Jerry Farrell and Ellen Fry, nominated as members of the Ontario Energy Board.

**The Chair (Mr. Bill Mauro):** Any discussion? All in favour?

**M<sup>me</sup> France Gélinas:** Sorry, I haven't been on this committee for a while. Do we vote on them together or one at a time, and when does it come?

**The Chair (Mr. Bill Mauro):** We just discussed that. They're all to the same agency. We just discussed it. There was agreement between the—you missed that.

**M<sup>me</sup> France Gélinas:** I missed it? Damn, it went by fast. Everything goes by fast this morning.

**The Chair (Mr. Bill Mauro):** Well, they're all on the same board; they're not different. So we just decided if we would deal with them as one or individually.

**M<sup>me</sup> France Gélinas:** Is it too late to say individually?

**The Chair (Mr. Bill Mauro):** Okay, you're saying individually. We'll just have a vote on it now. All in favour of dealing with them as one? Opposed? Okay, we'll be dealing with them as one.

Ms. Jaczek has moved concurrence. Any discussion?

All in favour? Opposed? It's carried. Thank you very much.

I thank all of you for being here today.

The only issue for the committee would be that we have to deal with the issue of OICs still coming forward through summer recess. Rather than trying to deal with a date now, would it be okay if we just asked the clerk to set a date for the subcommittee and let the subcommittee deal with it? All right. Very good.

Thank you very much. We're adjourned.

*The committee adjourned at 1013.*





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## Assemblée législative de l'Ontario

Première session, 40<sup>e</sup> législature

# Official Report of Debates (Hansard)

Monday 25 June 2012



# Journal des débats (Hansard)

Lundi 25 juin 2012

## Standing Committee on Government Agencies

Agency review:  
Liquor Control Board of Ontario

## Comité permanent des organismes gouvernementaux

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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GOVERNMENT AGENCIES

Monday 25 June 2012

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
ORGANISMES GOUVERNEMENTAUX

Lundi 25 juin 2012

*The committee met at 1006 in the Crowne Plaza Niagara Falls-Fallsview, Niagara Falls.*

## SUBCOMMITTEE REPORT

**The Vice-Chair (Mr. Phil McNeely):** Good morning. We are here to conduct the agency review of the Liquor Control Board of Ontario.

Before we begin, we have a subcommittee report on intended appointments for June 14, 2012. Would someone move adoption of the report?

**Ms. Helena Jaczek:** I'll move adoption of the report.

**The Vice-Chair (Mr. Phil McNeely):** Any discussion? Shall the report carry? Carried.

## INTENDED APPOINTMENTS

**The Vice-Chair (Mr. Phil McNeely):** Unanimous agreement for extension of deadline for review of intended appointments selected from the June 1 certificate: There were five selections from the June 1 certificate. These selections must be considered by the committee before July 1. Pursuant to standing order 108(f)(11), with unanimous agreement of the committee, we can extend that deadline.

Is there unanimous agreement to extend the deadline to consider these intended appointments to July 31?

**Ms. Helena Jaczek:** I'll so move, Mr. Chair.

**The Vice-Chair (Mr. Phil McNeely):** Agreed? Agreed.

## AGENCY REVIEW:

## LIQUOR CONTROL BOARD OF ONTARIO

**The Vice-Chair (Mr. Phil McNeely):** We will now proceed to the agency review of the LCBO.

## LIQUOR CONTROL BOARD OF ONTARIO

**The Vice-Chair (Mr. Phil McNeely):** Mr. Olsson and Mr. Peter, please come forward.

**Mr. Kim Craitor:** I have a point of privilege, Mr. Chair.

**The Vice-Chair (Mr. Phil McNeely):** Please.

**Mr. Kim Craitor:** Thank you. I'd like to take a moment to welcome everyone to my riding of Niagara Falls, Niagara-on-the-Lake and Fort Erie. I know we have a

busy schedule, and it's kind of a shame, because we have great wineries, we have the best golf courses, we have two casinos, and we have the Shaw theatre. I could probably spend four hours telling you all the things that we have, so I hope you have some time to come back, and if you do, please give me a shout. It's a great riding, just like each of you have a great riding that you represent, so welcome to my riding.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Mr. Craitor, for that great welcome to Niagara Falls.

The LCBO will have 30 minutes for their presentation, following which each caucus will have 30 minutes for questions in rounds. The questioning will begin with the official opposition, then to the third party, then to the government.

You may commence your presentation, and for the purposes of Hansard, make sure that you give your name.

**Mr. Philip J. Olsson:** Thank you, Mr. Chairman, and thank you, Mr. Craitor, for having us in your riding—always delighted to be here.

We're very pleased to have this opportunity to meet with the committee. I will present some very brief operational remarks, which will not take 20 minutes, about the LCBO, and then we will address your questions.

I would like to begin by introducing the members of the LCBO management team who are here with me today. Proceeding from your left, Bob Downey, who is senior vice-president, sales and marketing; Patrick Ford, who is the senior director of policy and government relations, and he's responsible for that monster book that you've received; to your right and my left, Rob Dutton, who is our senior vice-president, finance and administration, and CFO; and between the two of us, our president and chief executive officer, Bob Peter.

A little background about Bob, our president and CEO and leader of the management team: Bob came to the LCBO almost 11 years ago and brought to the job 34 years of private sector experience as a Canadian retail industry leader. He was president of the Bay; he was president of Simpsons. Frankly, I feel that the government and the people of Ontario are very fortunate to have such a retail industry expert at the helm of this crown agency.

When I joined the LCBO board as vice-chair in 2004, I suspected that the record profits I kept reading about might simply reflect the special position of this agency, as it has a special position in the alcohol marketplace,



and the level of markups set in consultation with the Ministry of Finance, rather than the capabilities of management and staff. By the time I appeared before this committee for an agency review in 2006, I no longer held this view.

Through my 29-year career in finance as an investment banker and professional investor, I have gained considerable experience assessing the strategic discipline and business performance of many major Canadian companies. I am prepared to say again, as I said in 2006, that the LCBO is one of the best-managed companies in Canada.

In 2006, I explained how management's focus on continuous improvement had impressed me. This approach, which defines the LCBO's corporate culture, has enabled the LCBO to evolve with the times and keep pace with its customers' changing expectations.

I was not the only one to reach this conclusion. The 2005 review of LCBO operations by Deloitte, commissioned by the government, concluded that the "LCBO is a well-managed organization that has successfully transformed itself into a modern retailer." I believe the LCBO's performance since 2006 demonstrates continued good management and ongoing improvement that the province expects from its operational agencies.

I hope you have had or will have time to review the materials provided to the committee and the cover letter I sent, which summarizes our performance between 2006 and today.

I want to start with brief comments on the two topics central to the LCBO's existence: social responsibility and revenue.

The Challenge and Refusal program is the single most important way the LCBO delivers on its commitment to the socially responsible sale of alcohol. It is how LCBO staff prevent sales to minors and to those who appear intoxicated. The total number of challenges has more than tripled since 2006, and the number of people refused service has more than doubled. This is testimony to the increased vigilance of our staff.

The LCBO is also actively involved in public education to encourage the responsible use of alcohol. We don't preach to people, but instead provide Ontarians with information and tools with which to make informed decisions about alcohol consumption. These include the Deflate the Elephant campaign, the current version of our annual education campaign on drinking and driving, and it's the 18th such campaign; materials on alcohol and pregnancy, developed and produced in cooperation with Best Start; partnering with the Centre for Addiction and Mental Health to make available publications on low-risk drinking guidelines and responsible hosting; and assisting parent action on drugs to develop alcohol-specific resources to engage teens in discussion about alcohol. This is just a sample of the LCBO's work in partnership with social responsibility and public health groups.

Committee members may be interested in knowing that the LCBO raised \$1.27 million in December 2011 to fund the presentation of Mothers Against Drunk Driv-

ing's high school education program, which they call "Damages."

The LCBO's net income last year was \$1.65 billion, up from \$1.3 billion in 2006-07. This is an increase of 27.6%. Equally telling is the fact that over that same period, sales increased by 21.1%, while expenses trailed both sales and income, increasing by 17%. These are exactly the trends an owner or shareholder hopes to see: growth in sales outpacing growth in expenses, and profits outpacing both.

LCBO sales growth has been consistently higher than that of the overall retail sector, with new and upgraded stores, good product selection and successful marketing and promotions contributing to sales growth.

The other driver of increased revenue is tight expense control. Controlling the amount of inventory the LCBO holds has been a big part of this success story. Over the past decade, the amount of working capital invested in inventory has decreased from over \$100 million to less than zero. This means that, on average, the LCBO sells products before it pays for them. At today's sales levels, this amounts to a \$170-million savings in working capital and a corresponding reduction in the need for warehouse space and staff hours to handle the inventory we no longer need to carry.

During the past six years, the LCBO has increased store labour productivity with significant improvement in both sales units and sales dollars per hours worked. The LCBO has also reduced its expenses for items ranging from printing costs and professional services to packing materials and store waste fees, among others.

There has been a lot of discussion lately about the prices LCBO pays suppliers and whether the agency should be getting lower prices on the alcohol it buys by virtue of the amount it purchases. There is a lot of confusion about this, and we welcome this opportunity to address it.

First of all, some important context regarding LCBO prices: Generally speaking, and as I'm sure you're aware, our prices are typically—but not always—higher than what you will see south of the border. Most US jurisdictions do not have the same commitment to the socially responsible sale of alcohol that Ontario does, and their governments do not fully benefit from the revenue potential of this category. But what you may not know is that, through repeat national surveys, the LCBO consistently has the lowest average prices for alcohol across Canada, even lower than the privatized alcohol marketplace in Alberta.

The LCBO operates with a fixed markup structure, as well as with minimum prices established in regulation. These practices assure two things: first, consistent and fair treatment of the many Canadian and import suppliers that we do business with; and second, that our pricing supports our commitment to social responsibility.

The pricing structure under which the agency operates has been confirmed by successive governments as an appropriate one for a government agency. However, in his last annual report, the Auditor General of Ontario raised



the question of whether these rules restrict the LCBO from being able to obtain even lower supplier quotes than what we are already able to achieve with our buying power. We're always interested in finding ways to further improve our profitability and the returns that this business provides to the taxpayers. As such, we are reviewing the Auditor General's recommendations and other options for further enhancing our financial returns with the Ministry of Finance.

It is also important to understand that there are other ways the LCBO optimizes profitability while ensuring that consumers get good value on the products it sells. The most important of these is vendor revenues for promotional opportunities such as air miles, advertising flyers and sold space in our stores. Since 2006, vendor funding has increased by 62% to \$110 million annually.

The LCBO is proud to highlight and sell locally produced beverage alcohol products and to support the provincial economy by growing the sales of Ontario wine and beer. Increasing sales of VQA wine—these are the wines produced from 100% Ontario grape content—is a key strategic objective for the LCBO. Through a comprehensive array of promotional programs, culminating in the annual month-long Go Local campaign every fall, and through staff training, by making sure Ontario wine has the best retail location in stores and is presented in the most attractive store fixtures, the LCBO has more than doubled its sale of VQA wine since 2006. Over this period, VQA wine sales grew by 101%, while imported wines increased sales by 24.7%.

Ontario craft brewers have also benefited from promotions and greater in-store presence to increase sales since 2006 by an impressive 421%. Recent years have seen repeated year-over-year sales growth of about 50%.

I want to congratulate Ontario wineries, breweries and distilleries for the dedication and passion they bring to making world-class products. The LCBO is happy to contribute to the success of these local businesses.

Earlier I mentioned LCBO fundraising on behalf of MADD Canada. This is only one charitable or non-profit organization which has benefited from the generosity of LCBO consumers and staff. This past year, more than \$6.2 million was raised. I'd like to single out the \$2.5 million raised for the United Way across the province, making the LCBO the largest United Way contributor in the Ontario public service.

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Ontario has the best recycling system for beverage alcohol containers of anywhere we know. Most containers are returned for a deposit refund under the Ontario Deposit Return Program, but the LCBO also funds the recycling of some containers and blue boxes. Together, these achieve a return rate of 93%.

Recycling containers is only one part of our environmental strategy. LCBO is receiving significant international recognition for our leadership in the use of lighter-weight wine bottles, and we're also substantially reducing the amount of energy consumed and waste generated by LCBO stores.

The LCBO is a retailer, and no retailer can claim to be doing a good job unless its customers are satisfied. The LCBO conducts a variety of consumer surveys, the largest of which is the annual consumer tracking survey. Last year, the agency received an 84% customer satisfaction rating, up from 74% in 2006. This is a satisfaction rate that any large retailer would be proud of.

We're now frequently cited as a leading exponent of retailing in areas such as supply chain, marketing, consumer research, staff development and store design. Multi-year strategic plans and rigorously benchmarking performance against these and other plans have enabled the LCBO to better anticipate, understand and respond to forces shaping Ontario's beverage alcohol marketplace.

The kind of performance I've been summarizing for you cannot happen without very strong corporate governance, careful management of expenses and resources, and visionary leadership by our management team.

I believe any well-considered and fair third party evaluation of the LCBO would conclude that it is doing a good job of balancing its complex and at times conflicting mandates, mandates that require it to be a profitable and consumer-focused retailer, marketer of products and promoter of social responsibility, provider of international product selection, and champion of the Ontario wine, spirits and beer industries. All of these goals must be achieved while simultaneously supporting the policy of the government in office.

The LCBO is an important and valuable public asset, and the government and taxpayers understandably want assurances that it is being well governed. The LCBO board is responsible for ensuring that the organization acts in the best interests of the people of Ontario. This includes striking the correct balance between fiscal, economic and social goals. As chair, I take this responsibility very seriously, as do the other members of the board. Working with the government, we've recruited a skilled and experienced board whose members bring an impressive range of talents to this important body.

We fully recognize that we have an overriding obligation to the government and people of Ontario for complete transparency and accountability in all of our operations. We stand ready to support the government, to help it achieve its fiscal and other policy objectives, and to benefit from sound recommendations for improving from this and other reviews.

Thank you again for the opportunity to address the committee. Along with the members of LCBO management present, I look forward to answering your questions.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Mr. Olsson. There's a slight change. We will be doing the questioning in 10-10-10 segments. We will start with the official opposition and Mr. Jackson.

**Mr. Rod Jackson:** Thank you very much for your presentation. It's certainly an interesting subject, to peek behind the curtain of the LCBO for a minute.

You mentioned that you look at your pricing structure, in part, by considering social responsibility. By doing



that, it raises a bit of a concern for me in that it actually—I'm not trying to pin anything on you, but I'm interested in your comments on this. It seems to suggest that underprivileged people might be more prone to alcoholism or alcohol addiction than those with means. What would your comments be with respect to that?

**Mr. Philip J. Olsson:** First, I'd like to assure you and other members of the committee that it's not our intention at all to discriminate against underprivileged people. But it has been shown repeatedly—and you can explore this later with some of your witnesses from CAMH, for instance—that higher minimum prices do promote lower levels of consumption, and that's the reason why they have been set. They're indexed now, in the case of spirits, at least, and imported wines, to inflation.

But it's not our belief, nor have I seen any evidence, that lower-income people have greater problems with alcohol than high-income people, and that certainly was not the reason this policy was developed.

**Mr. Rod Jackson:** Okay. So there is evidence that shows a correlation between the pricing of alcohol and the consumption of it?

**Mr. Philip J. Olsson:** Yes. It's been made very clear through many studies, and if you wish, we can supply you with citations or copies of the studies.

**Mr. Rod Jackson:** That's fine. Thank you for that.

I think there's another concern with pricing that really is being skirted at times. The concern isn't just with the value. It's understood that the prices of alcohol in Ontario are, on average, less expensive than in the rest of Canada. But I think, really, when we look at the Drummond report and even the Auditor General's report, it's not suggesting that it's too expensive here but that there's an opportunity to increase the profit margin by using your buying power to reduce your cost of buying it—increasing the margin, putting more money into public coffers and therefore into the public's pocket.

**Mr. Philip J. Olsson:** You're correct in noting that that's what the Auditor General said. It's a complex topic within the limits of the time we have. I'll ask Bob Peter to explain it and what we're attempting to do about it; it will also make clear to you that, as I stated in my opening remarks, we get extensive marketing support from suppliers. You wouldn't necessarily receive that if you always tried to negotiate the lowest possible price for your product.

Bob?

**The Vice-Chair (Mr. Phil McNeely):** Could you start with your name, please?

**Mr. Bob Peter:** Bob Peter.

It's a very complex topic. Over the years that it has been proposed to successive governments—the NDP in the 1990s, the Conservatives and then to the Liberals—as an option, in all cases, it's been rejected for the transparency the current system provides to the suppliers. In Ontario, we have a very competitive marketplace. When we ask for a call for any particular product, we'll get 400 and 500 people trying to get one listing. So we think we get a pretty fair deal on that side of it.

Where we've gone after getting additional revenue is on the co-op advertising part of it and co-op support. We've gone from \$30 million to \$110 million, so we get it in a different way than on the flexible pricing.

Flexible pricing opens up a whole different way of operating. We're in a monopoly situation. All monopolies in the world today that are in alcohol are operating on the system we do. If we were to go to flexible pricing, we would create a whole different way of coming at it, which may create a lot of difficulties for suppliers. If we start grinding them down, they might not like it. In Ontario, here's an example: I know the grape growers, or the wineries, would not be very happy if we were to pursue that side of it.

It also creates different behaviours for your buyers than we currently have. We operate on a flow system; we reorder constantly. If you start buying in big volumes at low prices, you end up owning stock you don't necessarily want or necessarily sell. So there's a whole different skill set that has to be developed to go that route. It's doable, but it's a very difficult one in a monopoly situation and with all the different mandates that we have given to us here today.

**Mr. Philip J. Olsson:** If I just may add a comment to that, because it falls to me to deal with the government of the day on this matter: Because our shareholder is the Minister of Finance, it is perceived, as you'll undoubtedly experience for yourself in the testimony of some of the groups to come before you, that pressure can be exerted on the government to improve their returns or other matters of interest to them.

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If we did not have a fixed markup—which, by the way, every province in Canada, except Alberta, which has privatized its system, has, and all of the Scandinavian countries—you open the door for the almost irresistible temptation by vendors and our political masters to negotiate over prices. I would suggest to you that it would not be a good use of government time and it would not have a happy outcome for all concerned. As Bob has said already, it would be a particularly unhappy outcome for some of our most treasured Ontario producers. So that is a political overlay that we can never lose sight of.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Munro.

**Mrs. Julia Munro:** Thank you very much for coming here today and providing us with an opportunity to learn more. I have a question that relates more to my constituents in terms of understanding more about the LCBO, and it comes from the question of what is measured here when we're talking about, at the very beginning of your remarks, the benefits to the government. We're looking at, I think, \$1.65 billion. Does that sound right?

**Mr. Philip J. Olsson:** That's correct.

**Mrs. Julia Munro:** And that's the 2011-12 number?

**Mr. Philip J. Olsson:** Yes.

**Mrs. Julia Munro:** When I look at some of the information you've provided, you also referred to things as dividends, and I want to know: What's the difference between a dividend and net income to the government?



**Mr. Philip J. Olsson:** A very good question. I would ask Rob Dutton, who is our chief financial officer, to give some clarity to that.

**Mr. Rob Dutton:** Hi. Rob Dutton. The difference is, the net income is our bottom-line profit, and the dividend is that amount which is recommended by senior management to the board of directors as a transfer of profit to the government of Ontario. Usually, there's a difference of about \$5 million to \$10 million between the two numbers. For example, in this planned year, we're expecting to give a dividend of \$1.7 billion to the government, but our planned net income line is \$1.708 billion. Essentially, there's a bit of wiggle room in there for us. We can determine from time to time, though, depending on our operations, that the dividend number might actually be larger than our profit number. For example, under Bob's leadership, we have taken a great amount, a great value, of inventory off our balance sheet and translated it into liquid assets. That was immediately flowed to the government.

**The Vice-Chair (Mr. Phil McNeely):** The time limit is now up, so we'll have to continue that later.

The third party: Ms. Taylor.

**Miss Monique Taylor:** Good morning, and thank you very much for being here with us today and taking the time to be reviewed.

Through the report, I'm seeing the mentioned sales of the VQA wineries have increased by 101.1%. What exactly does that per cent mean of what's on the shelves, if you know what I mean? How much of our wines are being sold? It's increased, but by how much?

**Mr. Philip J. Olsson:** Bob, perhaps you'd care to answer that question? Bob Downey, our senior vice-president, sales and marketing.

**Mr. Bob Downey:** Bob Downey. Currently, the amount of listings on the shelves of VQA wines on our general list side is 15.1% and our sales are just slightly under 8%. So if you look at these numbers in terms of share of listings versus share of sales, it's almost double, so to us it indicates the amount of support we've had in putting the product into the marketplace and over-indexing against its share of sales. We believe that's been a great contribution to and a show of faith on our part to the industry that will give more space than it actually would deserve if you only look purely at sales.

**Miss Monique Taylor:** Okay, so just to be clear, it's 15.1% on the shelves that is Ontario?

**Mr. Bob Downey:** Yes, that's right. Both, it's almost identical the amount of space that they have, 15.1% of the shelf space, and almost 15%—a similar number—of the listings versus the sales. Not only is that more listings, it also has more space. The space it has is some of our prime space in our stores. It's at the front of the stores. They have special attractive fixtures, wooden fixtures that really stand out from the rest of the store.

**Mr. Patrick Ford:** If I might supplement Bob's comment—my name is Patrick Ford—what that 101% represents in real terms for Ontario wineries in a comparative sense as well versus imported product over that time

period: That's about four times the growth of imported wine during that time period. In the past year, that translated into the sales of wines from over 100 VQA wine producers and the sales of slightly over 1,000 different VQA wines during that time period.

**Miss Monique Taylor:** Very interesting. Thank you. And that would also bring me into the microbreweries and other small wineries that I've heard from. They feel that they have a difficult time getting into the stores. I think maybe that's because they're not able to produce at the quantity that is necessary. Is that how it works?

**Mr. Philip J. Olsson:** Bob, I think you should deal with that question. We do have a number of programs specifically designed for very small producers and perhaps Bob could explain them and respond to the question.

**Mr. Bob Downey:** Bob Downey. Yes, we do. We have a number of scaled programs that we've designed depending on the size of the wineries. For example, we have a program called Go-to-Market which allows small wineries to direct deliver to local stores—local to the winery—as well as some of the larger stores in metropolitan areas like Toronto and Ottawa. It could be as little as seven or eight stores, up to 30 stores, depending on the resources they have available to deliver. There have been a number of wineries that have started that way. For example, Sandbanks winery in Prince Edward county started that way; it's now the number nine winery.

We also have another program called Wines to Watch—it used to be, formerly, called the Ontario Craft Winery program—and that's for slightly larger wineries, where we'd put that into a number of stores. They have a special end fixture, and they have scaled sales targets over a three-year time period to then achieve. If they hit these targets, they can go into a general listing and then start to grow their business from there—

**Mr. Patrick Ford:** And also small brewers programs.

**Mr. Bob Downey:** And likewise for Ontario craft brewers; we have limited distribution options available for them, similar to what we do for the wineries.

**Mr. Philip J. Olsson:** I just—

**The Vice-Chair (Mr. Phil McNeely):** Name, please?

**Mr. Philip J. Olsson:** Sorry?

**The Vice-Chair (Mr. Phil McNeely):** Name?

**Mr. Philip J. Olsson:** Philip Olsson. I'd just like to be clear, when craft breweries are talking about access to market, they are talking about us or the Beer Store. The Beer Store is privately owned and we have no influence over their merchandising policies.

**Miss Monique Taylor:** Okay. So, as a board, you are trying to allow as many local wineries and microbreweries into the stores and to provide space in the local areas?

**Mr. Bob Downey:** Yes, we definitely encourage that, and that's why we set these programs up.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Forster.

**Ms. Cindy Forster:** Thank you for being here today. You talked about the profits of the LCBO and about the costs of the LCBO in relation to Alberta, for example,



where it's privatized. What kind of percentages are we talking about there? You said that you have the highest profitability, so what's that percentage margin, based on per capita as well, between Ontario and a province that has the system privatized?

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**Mr. Philip J. Olsson:** I don't know whether to pass that on to Rob Dutton or ask him to get his calculator out while I stall for time, but, Rob, I think you should make an attempt to answer with the information we have available right here, and then we can provide more information to the committee later, if you wish.

**Mr. Rob Dutton:** Certainly for us right now, it's 35.2% profit. For Alberta, offhand I don't have it, but I know it's lower. The interesting thing about Alberta and Ontario is that their entire markup system is based on flat fees. When they changed over to the privatized system, obviously they wanted to keep some degree of revenue neutrality throughout the change. What that meant, because they were using flat fees, is that the lower-priced products, which represent 80% of the volume moving through their system, went up slightly in price, and the higher-priced products, the very expensive champagnes and cognacs, came down in price. As to their total profitability, I know we're more profitable, but right now I can't give you that figure. I can get back to you with it.

**Ms. Cindy Forster:** Right. Compared to provinces other than Alberta in Canada, what is the comparison of profitability of money actually flowing back into the government coffers? Are you 5% higher or—

**Mr. Rob Dutton:** Well, we certainly give the government of Ontario more money than any other province.

**Mr. Bob Peter:** We can get those numbers for you, but we're at the top, or near the top, of the list. Some provinces charge a lot more markup for beer than we do—here, we have a flat tax on beer—so it's a larger portion of their revenues than it is for ourselves. So some of them get more money that way. For example, Quebec: They're about one or two points below us in net profit.

**Ms. Cindy Forster:** So, here in Niagara Falls we live right across from the US, where alcohol prices are considerably lower. What impact do you see on Canadian communities that actually border the US, particularly with the most recent changes to the duty-free piece?

**Mr. Bob Peter:** We haven't really seen any noticeable effect on that. We do see variations along the Quebec-Ontario border. We have an awful lot of people who, in Quebec, shop for wine in Ontario because it's cheaper by about \$2 a bottle. In the case of beer, it's cheaper to buy your beer in Quebec, so people go back and forth on that particular border. On the Manitoba border, we don't see—there's nobody there, so we don't see any effect there.

There are people who buy in the States, but then they don't get free health care like they do here.

**Ms. Cindy Forster:** Right. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** That's the end of the 10 minutes. We'll go to the government now. Ms. Jacek.

**Ms. Helena Jacek:** Thank you very much, Mr. Olsson and your team, for coming here this morning. I'm intrigued by your opening remarks, when you said that in 2004, you somehow suspected that perhaps the LCBO's monopolistic position and the system of markups was the reason for the record profitability that the organization has had, but by 2006, you had come to a different conclusion and felt that the operation was well managed and had definitely developed some specific management strengths. Could you just elaborate exactly what you went through, as chair of the board, to look at overheads etc. and what actually brought you to that conclusion?

**Mr. Philip J. Olsson:** I'd be delighted to respond to that. It is true that the operations of the LCBO, because they're not really like any other organization in the province and we are not a publicly traded company, so there are not analysts to write reports about us—our operations are, for that reason, not that well understood.

As I proceeded to become more and more involved, I realized that we'd really pushed ahead in several areas. The first thing that's extremely important to our efficiency, and going back to the dividend, is our logistical efficiencies, and that is really Bob's area of expertise. In fact, there's a joke around the office that, "You don't want to go into Bob's office this month because he'll make you watch the pallet-stacking video again." So there's an emphasis on efficiency.

We try to have a mix of lifers, so to speak—people who have spent their entire career at the LCBO—with people who bring great skill from the outside sector, and that shows up in our marketing and merchandising. The quality of our marketing is well demonstrated by some of the materials that we've brought, on the table to the side in the back.

It's interesting, because I came from a large bank, at that time the largest Canadian bank, and the financial information that our CFO at the time provided and that is now provided by Rob was of a much higher standard of disclosure for the board than anything I had previously experienced. It was really quite remarkable to me. The managers have a program on their desktop computers where they can drill down by product, by store, by day to find out exactly what has been sold where and essentially manage, to use an industry word, at a level of granularity that you seldom see anywhere in the private sector, never mind the public sector.

I could go on, but those are three things that stand out.

**Ms. Helena Jacek:** Could you perhaps outline for us a little bit more of where you're looking for ongoing efficiencies? Certainly, in the media there have been some criticisms around overhead in terms of locations and that sort of thing. Could you comment on some of those criticisms and where you might be looking for increasing efficiencies?

**Mr. Philip J. Olsson:** I'd be delighted to, but I think Bob Peter would be the right person to comment on that.

**Mr. Bob Peter:** In terms of efficiencies, we're doing a whole series of things right now on our logistics side of the business that will improve productivity substantially



over the next couple of years. By more mechanization of the way we handle goods, speed it up, it should improve our costs there. We're continuing to expand our store network, which again will increase productivity through our network of stores. We have a new system we've just put in over the last year on scheduling of staff, which really refines where the hours are being allocated to when the business is there, so we should see some improvements there. There's a whole variety of different things that are being taken right now.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you for the presentation. It's interesting: We look to you for your efficiencies in things that you think you can do internally, and I know you've done some wonderful things, and maybe later on you can share with us, especially on energy efficiency. One of the things that fascinates me is that you're obviously under the Liquor Control Act, but then there are 27 other pieces of legislation, provincially and federally, so obviously there be must some efficiencies on the other side of the coin, as it were. So I would be really interested in having that conversation. Maybe this isn't the time.

I'm sure you must have identified places where there is duplication, where you could, in fact, if we work together, find some more efficiencies, on how the government could be a support to the LCBO.

**Mr. Philip J. Olsson:** Thank you, Ms. Cansfield. We'd be delighted to do that, and we do that on an ongoing basis. However, we try to confine our public statements to matters relating to our business, not necessarily to political objectives.

I personally believe that a great deal of the province's resources are wasted on counting the pencils, which amounts to an awful lot more than the pencils that could be stolen, but that's our direction, and we deal with it and respond.

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But generally, I would say the relationship with government has been very good—and not just this government, but prior governments. I think it would go back to my predecessor Andy Brandt and my own efforts to continually establish our credibility with government so that we don't have too much day-to-day micromanagement.

**Mrs. Donna H. Cansfield:** What I was thinking of, actually, is the Ontario Open for Business—you know, what are the five things that we could do that could actually make you become more efficient? How could we be of support? So I was looking at it more from that sort of perspective.

It's nice to know that you are having those ongoing conversations, but sometimes—I don't know what it's like for your regulations, but certainly regulations themselves can be burdensome because they tend to go in and rarely come out, sometimes, when they're redundant. So it's nice to hear.

Maybe you could share with us—and I don't know; my time's probably up.

**The Vice-Chair (Mr. Phil McNeely):** Two more minutes.

**Mrs. Donna H. Cansfield:** Two more minutes—the beginning of some of the things you've done around the energy efficiency in your stores, because that's been a real challenge for you vis-à-vis the marketing, I understand.

**Mr. Philip J. Olsson:** We're very pleased with that. I'd ask Patrick Ford to respond to that.

**Mr. Patrick Ford:** Our stores, obviously, are the biggest area of impact that our business has from an environmental footprint perspective. What we've engaged in over the past four to five years is a campaign to significantly reduce our utilities consumption.

It started, in part, as we build new stores, with building them to a much higher standard than what they have historically been built to. We have eight stores across our network at this stage of the game that are built to what's known as the LEED—Leadership in Energy and Environmental Design—standard. We're not building every new store to a LEED standard, in part because we partner with developers in the construction of them, but we use what we learn from each of those stores to replicate the best attributes for each subsequent new store that we build.

Building to a LEED standard can be more expensive, of course, and there are savings that come with it, but we're able to target and prioritize the elements that work best. For example, we've now got somewhere between 30 and 35 stores that we've built just over the past three to four years that have a walk-in cold room for keeping beer and other products chilled where they rely on what's known as a free-air system. In other words, for seven or eight months of the year, they're drawing external air in to chill that space. One of those large walk-in cold rooms, bigger than this table size that we have here, is using less energy on a year-over-year basis than our old 12-foot open refrigeration units had.

We established a target, starting two years ago, to over a five-year period reduce our total utilities consumption by 10%. Following our second full year, we're now at an 8% reduction from our baseline, and that's with a larger number of stores than what we had at the beginning of that process.

Those are just a few elements. I could go on for some time; we have quite a few other elements that help drive those costs down. But it's an example of where we can do the right thing for the environment and reduce our operating costs at the same time.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. Time is up. We'll go to the official opposition and Ms. Munro.

**Mrs. Julia Munro:** If I could just continue with the questions that I had in the last round, I want to go back to the dividend. I've forgotten what "MRP" is. Of the many acronyms, what is MRP?

**Mr. Rob Dutton:** Minimum retail price.

**Mrs. Julia Munro:** Okay, thank you. The question that I just want to finish up on the dividend section—I



know in 2010, by the notes, that it didn't include the RST, but would the dividend then normally include the taxes that are going to the government?

**Mr. Rob Dutton:** No.

**Mrs. Julia Munro:** So they would be separate.

**Mr. Rob Dutton:** Yes.

**Mr. Philip J. Olsson:** None of our published numbers—you will not see an LCBO published number that includes any taxes paid to government.

**Mrs. Julia Munro:** Okay. I assumed that, but I thought I needed to ask the question.

**Mr. Philip J. Olsson:** It's a good question, and it's something that there seems to be a great deal of confusion about in the minds of the public and press.

**Mrs. Julia Munro:** Well, that's exactly why I wanted to put that on the record.

I mentioned earlier that there were certainly people I represent who have had some concerns. One of them is the issue of delivery of alcohol to restaurants and the pricing. I'd like to use this round to have some discussion on that, because it seems to me that it's a bit like robbing from Peter to pay Paul. At the same time as we've put a lot of effort into the promotion of tourism and things like that, we seem to have a negative when it comes to restaurants and the price they pay for alcohol.

**Mr. Philip J. Olsson:** I would ask Patrick Ford to respond to this question.

**Mr. Patrick Ford:** First of all, the licensee community: There are 17,000 licensees in the province and they are, I guess, alongside the Beer Store, our biggest single customer base. We have a very strong appreciation for the fact that there are an awful lot of great businesses out there, from mom-and-pop operations through to large province-wide chains, that we do business with.

We make a point of establishing unique opportunities for the licensee sector. For example, we have a range of products that are exclusive to be sold to restaurants and bars, which provides them the opportunity to offer something that's a little bit different than would otherwise be available in stores. Bob Downey's team provides to the hospitality sector, across the board, advance notice of any time that we have an upcoming sale, a limited-time offer—those kinds of discounts—so that they can plan their purchases in a way to assist with that as well. We meet routinely with representatives of the licensee sector to find other ways in which we can support and assist them in that regard.

However, decisions with respect to the markup structure are ones that would be taken in consultation with the government and with the Minister of Finance. Certainly we have introduced measures, historically, which have aided that sector as well, but that has been, because of the fiscal impact that it would have, in consultation with the Minister of Finance. For example, a number of years ago we introduced the use of credit cards for licensees, which, while it had a net negative impact on the net income for the LCBO because there's a cost of using credit cards that's borne by the retailer, it was viewed to be a good thing to do to support this sector.

Those are the key points that are hitting me at this stage.

**Mr. Rob Dutton:** To your point on pricing, though—and I've always found it rather ironic that the licensee community criticizes us for our unhealthy margins, and our net effective margins tend to range between about 75% and 140% on our products, which is not that unusual compared to other retailers. What's fascinating is that licensees have an average markup on spirits of 400% and on wines and beer of 300%. Just a little point of clarification there.

**Mrs. Julia Munro:** I told you I was acting on behalf of those who have expressed that concern to me.

I also wanted to know: At which point is it your decision and at which point is it the Ministry of Finance's? I appreciate the answer.

**Mr. Philip J. Olsson:** Just to be clear: As Patrick said, everything we do, as it relates to markups and such, is of course a consultative process with Finance. We don't have an influence on beer prices to consumers versus licensees. Those policies are determined by the manufacturers themselves.

**Mrs. Julia Munro:** One other question, and actually it was triggered by the reference made to using credit cards: I've always wondered about a monopoly having air plan miles. Normally, in the private sector one would do that as a little niche thing to attract more consumers. Why does the LCBO have air plan miles?

**Mr. Philip J. Olsson:** I'd like to tell you, by the way: That was the first question I asked when I came on the board, so I can assure you that Mr. Peter is keen to answer it.

**Mr. Bob Peter:** I had the same question when I came on board. Anyway, air miles is a wonderful tool. I'll tell you, it has many different facets, but first off, we make money at it, several million dollars, so it's a revenue generator. That's one. Two, it gives the customer a reward. Three, one of the pressures we have, or Bob Downey has in sales and marketing, is that lots of vendors or suppliers want to off-price their products, and we have a cap. We don't off-price more than 100 or so items in any given month. There's a pressure to do an awful lot more than that. They have the opportunity to use air miles to promote their product, and we continue to sell our product at full margin. So it enhances our revenue we give the government, on that side of it, it allows the suppliers an opportunity to promote their products without disrupting the pricing, and we get fabulous marketing information back. We know what people's shopping baskets are, we know where people shop, in various stores, which our marketing research people use constantly when we're planning new stores and locations of them, and when we open a store, we can see where the new people have come from and the effect on other stores.

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So we get marketing information, we make money, we give an outlet for the suppliers to promote their product. There's a lot of wins, but at first look, it wouldn't seem that. Interestingly, Newfoundland has followed, Nova



Scotia has it now, and Manitoba, so they're all following us and learning accordingly. It has been a wonderful win for us.

**Mrs. Julia Munro:** Thank you. I was always curious about that, and obviously you were too at one time.

**Mr. Bob Peter:** Yes, I was.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Jackson.

**Mr. Rod Jackson:** How much time do we have left, Chair?

**The Vice-Chair (Mr. Phil McNeely):** Three minutes.

**Mr. Rod Jackson:** Okay. This might take more than three minutes to answer, but I'll give it a shot anyway. In the Drummond report, it suggested that in order to maximize profitability, the LCBO should engage in a more aggressive store expansion program. Is there something the LCBO is considering? If so, how much would it improve profitability by, or otherwise?

**Mr. Philip J. Olsson:** We'll give you an answer to the extent time allows. We were delighted to see that in the report, because we've been negotiating with government for years to materially expand the program, and I can report that we have. Bob?

**Mr. Bob Peter:** Yes, historically, we've opened between 15 and 18 new or relocated stores a year. This year that we're currently in, we're opening 35, and next year, 35. So there will be a substantial expansion of the network of new stores and replacing older, antiquated stores with much larger ones. In terms of what that will deliver to the bottom line, it will deliver—

**Mr. Rob Dutton:** About \$40 million to \$45 million a year.

**Mr. Rod Jackson:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Have you finished your questioning? We'll go on to the third party. Ms. Forster.

**Ms. Cindy Forster:** Going back to an earlier question, when we were talking about restaurants and bars, what is the LCBO position with respect to allowing restaurants and bars to purchase at wholesale prices? From the direct consumer experience, that doesn't guarantee that you're going to get lower prices in the restaurant that you're in. On the weekend, actually, I was in a restaurant here locally and they were featuring a wine that I actually had bought a bottle of last week when I was in Toronto, that I paid, I don't know, \$12 or \$13 for, but I was being charged \$9 for a six-ounce glass of it.

With respect to that, what is your position about allowing restaurants and bars to actually purchase at a wholesale price, and what price do they actually purchase at, at the moment?

**Mr. Philip J. Olsson:** Well, I'll answer that question, but first I'd like to just assure you of my solidarity with your point of view.

**Mr. Patrick Ford:** First of all, I think it's commonly understood within the hospitality sector, depending on the business model that a restaurant or bar may have, that a fair percentage of their margins may be found in their alcohol products. So it's not uncommon to have that kind of experience of paying \$9 for a glass. The licensee, of

course, has a lot of costs tied up in that: overhead, carrying inventory, staffing, insurance and so on.

The actual price that we sell the product at—there's a formula, as there is to all beverage alcohol pricing. It works out, for most of the products, to be a 5% discount—not a large discount, but a 5% discount on the alcohol sold. That amount, for the sale of Ontario VQA wine—actually, pardon me, for all Ontario wine, VQA and other Ontario wine—is doubled to a 10% discount.

As Mr. Olsson mentioned earlier, the LCBO does not actually set the prices, though, for the beer that's sold. The vast majority of beer that is sold to restaurants and bars is sold by the Beer Store, and those rates that they sell those products at are set exclusively by the supplier itself: the Molson, the Labatt, the manufacturer of the product.

**Ms. Cindy Forster:** The other question that has come up from time to time is perhaps allowing for the sale of wines in farmers' markets. In states like Pennsylvania and Ohio, it's permitted. What is the position of the board on something like that?

**Mr. Philip J. Olsson:** First, I'll just make an overall comment, and then I'll ask Patrick to address it, because we have had extensive discussions about this.

I always remind myself, my staff and all constituencies that we exist for the responsible sale of alcohol, so our attitude about that is not a function of monopolist practices, because it probably would be a relatively modest amount and things that we wouldn't necessarily sell anyway.

There are significant social responsibility impacts of that, which I would ask Patrick to address.

**Mr. Patrick Ford:** Further to Phil's point, any decisions regarding the broader beverage alcohol marketplace—the framework, what kinds of retailers there are beyond the LCBO and so on—is clearly a government decision and not one that the LCBO has any authority to make. However, when those matters are given consideration, it's not uncommon for government to consult us.

It's our view that the best opportunity that Ontario manufacturers have to compete and to become a strong, sustainable, growing sector—our wines, our beers, our spirits, our ciders, the full range of products—is inside our system. They're competing against the best in the world, which gives them that opportunity, working with the kind of marketing and support programs that Bob Downey's team provides, rather than being in an isolated setting, where they aren't getting the opportunity to continually up their game and improve their business in that regard within our walls. It's a very, very competitive environment for product, for price, for packaging, for marketing, for all those elements.

We feel strongly about the opportunity that Ontario manufacturers have been given, and we think that the format that we have here has actually really helped enhance their overall competitiveness in a broader, beyond-Ontario context.

As Phil noted, there are concerns associated with the sale of product in a less-regulated environment, for



example. Ontario has a mix of private and public retail store formats. We have less than half of the actual outlets in the province. Slightly over half are run by the Beer Store, the wineries, some duty-free outlets and a couple of other small settings like that.

I think this is a question that would be really good to pose, if you're inclined, to CAMH when they arrive, to MADD when they're in on Wednesday.

From the LCBO's perspective, we take great pride in the responsible sale of alcohol. That's a number one source of pride, from repeat surveys done of our thousands of staff, about why we're in the business. They have a principal focus on ensuring the safe sale of product to persons who are of age, who are not already intoxicated. So that's our perspective on that.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Taylor.

**Miss Monique Taylor:** How much time do I have?

**The Vice-Chair (Mr. Phil McNeely):** Four minutes.

**Miss Monique Taylor:** That's a lot. Okay.

To branch off of Cindy's comments with regard to the market, would you feel the same perspective in taking it into convenience stores, as is done in the States and other parts of the world? How do you feel about that—if you were questioned, of course, by the government, if they were to come to you and ask you these questions.

**Mr. Philip J. Olsson:** That's not an unusual topic for discussion. I assume you don't just mean farmers' wines, but some subset of what we sell or something of that type.

**Miss Monique Taylor:** Exactly—a full range of alcohol to be distributed in convenience stores.

**Mr. Philip J. Olsson:** There are some very significant potential impacts of that. I would just say, first, that it has not generally been a happy experience for the governments in provinces that have tried it. It has some very significant impacts for social responsibility. We have the choice of promoting Ontario products in a variety of ways; we've referred to a number of them now. I don't think you would expect a large convenience store chain or a grocery chain to think that was very high on their list of priorities, and I think you'd see quite a different product mix and a different profitability structure. Those are three general comments I would make. Patrick, do you wish to add something to that?

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**Mr. Patrick Ford:** Certainly. It's Patrick Ford. To elaborate on Mr. Olsson's point about the opportunity that would exist for Ontario products, depending upon the beverage alcohol sector, between wine, spirits and beer, it's either a relatively small jurisdiction or a big jurisdiction. For Ontario wine, we're about 30th globally in terms of the size of our industry. An industry of that size needs to focus on premium product, premium opportunities, and that's what 100% Ontario VQA wines are all about. From the range of places where you could sell alcohol, the last place to sell 100% Ontario VQA wine—which is not south of \$10; it's north of, and beyond—is a convenience store. Convenience stores are a model that lends itself very well to high-volume foreign

producers of beer, wine and spirits. Our domestic market may function better for beer in a convenience format, but particularly for our wine industry, that's a tough market for them to be in. The mega-producers of California, of Chile, of Europe and so on would have a much easier time in that kind of setting.

The final comment, just to elaborate on Mr. Olsson's mention of the profit model: Clearly if we added many thousands of points of sale and many thousands of individual business owners to expand to have the opportunity to sell wine, beer, spirits or whatever, that would have a significant impact on the LCBO's profitability and its dividend transfer to the province.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. Time is up. We'll go to the government and Mr. Craitor.

**Mr. Kim Craitor:** I was thinking, back when I was first elected—that's eight years ago—as an MPP, the first agency that I got calls about was yours, and I'm pleased to tell you, it hasn't stopped in eight years. So whether it's the grape growers that come in to see me, whether it's WGAO, whether it's the wine council—I'm really pleased to see Hillary Dawson is here—there's been lots of concerns. It's the first time I've ever seen you people. I have never, ever, in eight years, had anyone from the LCBO come and sit with me. I think Andy Brandt was the chair, and even then I didn't get to see him. So I just have a few things—I have lots of things, but I'll just deal with a few right now.

Let me just first get your opinion on something, and whether you can answer it or not we'll see. One of the things I remember that our government did, and I supported it, was the idea of protecting and preserving our agricultural lands. I believed in that. I didn't want to see it concreted over. So we made difficult decisions in protecting those lands—lots of controversy, lots of backlash at Queen's Park that we shouldn't do that, that we're taking away people's rights, that they should be able to do whatever they want with their lands: severance it, subdivide it, whatever. So my first question is a simple one. That decision to protect those lands: Can you tell me if it has had an effect on the LCBO with sales? Do you have any opinion on that? I'm not talking to you in terms of asking you to give a decision or remarks about our policy to do it, but just in terms of the LCBO. Did it have any effect, negative or positive?

**Mr. Philip J. Olsson:** I don't believe that we have seen any direct impact of it. There is an ongoing discussion between wine producers and grape growers. All we really have to say about that is that we could hope that it would be resolved, because we think that both industries could move ahead if they could come to some agreement on that. Perhaps one might speculate that the greenbelt policy puts some pressure on growers because they feel they have another alternative for their land, but we haven't seen any direct impact at the LCBO.

**Mr. Kim Craitor:** All right. You'd make a good politician.

*Interjections.*



**Mr. Kim Craiton:** That was a compliment. My colleagues are—that was a compliment. Politicians are good people.

**Mr. Philip J. Olsson:** Just before I go on, my chief of staff would like to make a comment here.

**Mr. Patrick Ford:** As we've noted, Ontario wine is our fastest-growing category—VQA specifically. Ultimately, we're going to need every acre, every hectare that can be under vines in a sustainable growing area in order to be able to supply demand. At the rate that it's growing, we will continue to need more down the road.

The only other thing I wanted to flag was—and very specific to the greenbelt—the foundation that supports the greenbelt, the Friends of the Greenbelt Foundation, actually recognized just earlier this month, with its annual Friend of the Greenbelt Award, Ms. Zimmerman from the Grape Growers, Hillary Dawson from the wine council, and our president, Bob Peter, for our contribution in the growth of VQA wine.

**Mr. Kim Craiton:** Thank you. The next one is to do with the federal government, Bill C-311. That's allowing—you know what it is—shipping of wines between provinces so we don't have to go through you guys. Do you have a view on that? You support it, right?

**Mr. Philip J. Olsson:** We don't have a view on federal legislation, but I think it's important that people understand what we're actually talking about. We're not talking about grapes that have been imprisoned and need to be freed. I'd like Mr. Peter to give you some context to that.

**Mr. Bob Peter:** I guess the real issue here is, importation of liquor is a provincial matter in every province, and what we're talking about—if I were Prince Edward Island or Newfoundland or whatever—is people shipping in there and not paying taxes. It's tax avoidance. Those governments have to make a decision if they're prepared to do that.

For most of those governments, their liquor control boards are a major source of revenue for their funding, and if you undermine that, then you undermine their ability to generate funds. That's the real issue at heart here.

As far as the LCBO, through private stock ordering, we can order any product available for anybody; we're quite happy to do it. We will do that and we're working on a whole new Internet online thing that will be able to list any wine for people to order as we go forward over the next year.

But a lot of the wineries in BC don't have sufficient quantity, and what you find is—I'll use the example of British Columbia. If they sell in British Columbia today, they pay no tax. In Ontario, if they sell direct, they pay 2%. So the taxation system rewards selling directly and making the most money, if you were a smart businessperson. What they're trying to accomplish, using BC, is that they can ship into Alberta paying no tax, make all the money. Well, the Alberta government wants to generate money. So the governments really have to come to grips with this issue. Once you start, it's not just going to be Canadian wine. You're going to open it up to the

Americans and you're going to undermine your whole system. That's what's got to be dealt with. And it's not us that's going to deal with it; the government's going to have to come to grips with it.

We just had a case in Saskatchewan where a firm had set up and was bringing in futures from France—these are the high-end wines—and selling them primarily to Ontarians and Albertans and British Columbians in Saskatchewan, because that's the lowest price to bring wine into legally—just putting it across borders.

So the whole process is potentially starting. They've been shut down by the Saskatchewan government, but it won't take long for people to get on the bandwagon very quickly. But it will be a lot bigger than just some VQA wine in Ontario.

**Mr. Kim Craiton:** Well said. Thank you.

How much time do we have?

**The Vice-Chair (Mr. Phil McNeely):** You have two minutes.

**Mr. Kim Craiton:** Okay. Let me just follow up with one last question. I'm sure that you're aware, or I would guess it, that I'm a strong supporter of our VQA wine. I passionately believe in selling 100% of the bottle of our grapes and doing everything we can to promote and get that wine out there.

Just a couple of short things: There's some suggestion of maybe having a specialized store—that's all that would be in the store, the VQA wines—to see if that would be another way of educating the public and convincing the public that they should be purchasing our wines first. Even though it may cost a bit more, we know it's ours and it's a great product.

Do you have a comment on that?

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**Mr. Philip J. Olsson:** Within the 30 seconds or one minute, I perhaps can't fully explore it, but I would relay to you that, when we first opened our Vintages section, we said people would buy vintage wines so we've opened an individual Vintages store. What happened? No one came. If you opened a VQA store, you might get some people who are knowledgeable and thought they wanted to come there, but the best place to market—people don't normally go to the store to buy VQA wine or French wine or anything else; they go to the store to buy some wine, and they see what's available. We think by far the very best presentation and marketing opportunity for VQA wine is in our stores, given the prominence that we give them.

**Mr. Kim Craiton:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. I will go to the official opposition. This is the last round. Mr. Jackson.

**Mr. Rod Jackson:** As you know, we're going through some difficult times in Ontario economically, and certainly throughout the rest of the country as well. There's a lot of talk about public sector wages and controlling what that means to the taxpayer. The LCBO had 256 people on the last sunshine list. What do you say to critics that say salaries need to be reined in and that



savings can be found by the benefits that can be passed on to consumers through this? Do you agree with the statement in general?

**Mr. Bob Peter:** I'd be happy to answer that. I'm Bob Peter.

In the case of the LCBO, I think there's 234 people on the sunshine list, on the last one. But in terms of salaries for management, the senior management team here has been frozen for four years now, and we've got two more, so six years—

**Mr. Rod Jackson:** That's just like us.

**Mr. Bob Peter:** Right. You guys are setting the pace for us.

**Mr. Rod Jackson:** I hope you get a pension.

**Mr. Bob Peter:** We've been frozen. So 90% of our people are unionized. They've had a contract going through; this is the final year of it. The 10% that aren't, they've had—all of them, the ones that aren't senior management, have had three years of being frozen, store managers and so forth. From that side of view, we're reined in pretty tight here.

**Mr. Rod Jackson:** Would you say that you have an effective performance management system in place for your store management and your executives?

**Mr. Bob Peter:** I would say we do. There's a small bonus for store managers who meet their sales targets and their profit targets and their expense targets component, but it's only for the 300 large stores. Overall, we're running a tight ship here.

We compete in the public place for talent, and in many cases, we're not even competitive with replacing people, so it is a concern. Having said that, I think collectively the senior team has done a good job. We basically lost very few people to outside, although we're starting to see that now. The banks are raiding a lot of Rob's people, so the pressure is building because we've got some talented people.

**Mr. Rod Jackson:** Good. Thank you.

I think it was in the Auditor General's report that there was some mention of questions about why it takes so long—in some cases, four to five years—to delist underperforming products that you might have. There are some questions around (a) how those products can be purchased and (b) why it takes so long to get those products off the shelf if they're not performing. What would you say to that?

**Mr. Bob Peter:** I'd ask Bob Downey to answer that.

**Mr. Bob Downey:** Yes, we do focus on turning our portfolio over. We do monthly reviews of our products for delisting. They have sales targets that they have to achieve; they've recently been updated. We made a commitment to have regular reviews of our sales targets and to get products out as frequently as possible. We thought we were doing a pretty good job, but we are putting even more effort into getting non-performing products out of the marketplace quickly now.

**Mr. Rod Jackson:** If you're doing a monthly review, how is it that some products stay for four to five years? Is

it just that there's so many products to review that it takes a while to get around to them?

**Mr. Bob Downey:** No; just sometimes, there's inventory that lingers a little bit in stores, maybe just a few units of product that may not have responded to the discounts that we've applied. Generally, the vast majority of the product is gone, usually within two to three months.

**Mr. Rod Jackson:** So I guess that kind of answers my next question, which is sometimes we find that—and I come from a retail small business background as well. I know that there are some products that sometimes underperform at first, but given some time and some different actions in the marketplace, they can come to be important players within your portfolio. You've suggested that sometimes it takes two, three, four, five months. Can you give me some sense of what kind of things you do to make sure that your products are effective in the marketplace and not just kind of laid on a shelf to languish?

**Mr. Bob Downey:** Yes, we give any new product a full year to start before we even apply the sales targets. Normally, if a product is even somewhat close to that target—it may be slightly under—we'll arrange a meeting with a supplier to create a program of support if they want to invest a bit more money in promotional programs to try and get the sales up. We also look at suppliers that might have two or three products. If they're in trouble, we don't delist all their portfolio of products at the same time as well. We're very sensitive to products, in particular when they're very close to the target.

**Mr. Bob Peter:** I just want to give you some context of a real success story here in Ontario: John Hall, who has Kittling Ridge Forty Creek Whisky. Back in 2004, he wasn't making the minimum sales requirement. He was basically selling us one tractor-trailer load a year, which is about 1,200 cases. I had him in for a meeting and said, "John, you've got to pull up your socks or you're going to be delisted." Anyway, he went out and, store by store, did tastings all over the province. He delivers today a tractor-trailer load every three days to the LCBO. We try to give people all of the encouragement, particularly for people in Ontario, to be successful. There's a huge success story. Interestingly, he is sold all across Canada but he can't get listed in Quebec.

**Mr. Rod Jackson:** One other quick question, and it's perhaps more of a curiosity than anything: Surely you have a good idea of what products sell in what parts of the province, what store maybe sells more. I know that some car dealerships, for example, sell more trucks, so they carry more trucks than cars. Do you have the same sort of program in place to identify what product sells best where?

**Mr. Bob Peter:** Yes, we do, and there are huge variations across the province—huge variations within the city of Toronto. If you go up to Woodbridge, we sell an awful lot of Italian product. If you go to Ottawa, we sell an awful lot of French wine. If you go to Thunder Bay, we sell a huge amount of spirits and beer. There are huge variations within the network, and the assortments we put in the stores vary considerably.



**Mr. Rod Jackson:** Is that determined by market research you do or just simply by the sales?

**Mr. Bob Peter:** Market research; sales. We know what surrounding stores do. We get a profile on the area. There are variations. If we have good sales reps in an area, sometimes they're a part of it. Part of it is the mix of people and where they've come from, their backgrounds.

**Mr. Rod Jackson:** Thank you very much.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Munro, you have two minutes.

**Mrs. Julia Munro:** I'm afraid two minutes isn't enough, but I want to follow up. You mentioned that 90% of the staff would be unionized. I noticed in the document that you've provided us here that you're looking at the liability in terms of pensions, and the accrued benefit liability; \$5.9 million is referred to as a current liability. Given that we have the demographic change of the workforce, longer life expectancy and a lower rate of interest for pension investments, are you in any conversations about where you might want to go with regard to the unfunded liability and what measures you might want to take in coming years?

**Mr. Rob Dutton:** As you know, we don't actually have control in either of the two pension plans, for management or for union, so we don't really have control over those factors. In terms of determining the EBO, the employee benefit obligation, we bring in actuaries every year who manage every year to confuse us most of the time. But they're the ones who come up with the figures. There was a change as we moved to international financial reporting standards from Canadian GAAP, which is generally accepted accounting principles. One of those big changes was that they forced us to take a look at the obligations over the average lifespan of the staff member, which significantly increased the obligation on our books.

In terms of how we would manage the underfunding of that obligation, that would really be for the two pension plans involved. We would have no direct input into that.

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**Mrs. Julia Munro:** So if you have labour discussions, then they would be through those overarching representations?

**Mr. Rob Dutton:** Well, it's more that the pension plans tell us and other employers what to do. If they increase their rates, they give us a heads-up, but there's certainly no negotiation around it.

**Mrs. Julia Munro:** But the ultimate funder, then, will be the taxpayer?

**Mr. Rob Dutton:** Sorry?

**Mrs. Julia Munro:** The ultimate obligation will rest with the taxpayer, then, as an unfunded liability?

**Mr. Rob Dutton:** Yes.

**Mrs. Julia Munro:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** We'll go to the third party. Miss Taylor.

**Miss Monique Taylor:** I've been reading here that when you purchase from suppliers you work backwards, and in some circumstances you tell, whether it be Chilean or other suppliers, that their price isn't high enough, so they have to come back with a higher price for you to purchase from. That puts the higher cost back on the consumer to still get the gained benefit of profit.

Why is it that you would do that instead of just reaping those profits from them? Do you know what I mean? I understand that we want to keep the cost at a certain level because it's management and everything like that, and it provides responsible drinking, and the whole environment, but why is it that you would rather profit from the consumer than from the supplier?

**Mr. Philip J. Olsson:** I'd just like to say that—it's a difficult area; that's not quite what happens. If we have any chance of being able to explain it, it will be Bob Downey.

**Miss Monique Taylor:** Okay. Lucky you, Bob.

**Mr. Bob Downey:** Well, we did expect this question might come.

First of all, let me say this happens on very rare occasions. More often, I would say, we ask the supplier to lower their price to hit that price point.

What happens is, we analyze our product assortment to look for opportunities where we might have a gap in the retail price. For example, we may have lots of products at \$14 and lots at \$16, but we see that the market needs a product at, say, \$15.95, and that's a price point we see an opportunity at. We then invite all of our suppliers to apply for that potential listing.

What happens often—sorry, not very often—is that they'll make a miscalculation in their pricing formula and give us a price that's too low, or there may be a variable such as a freight cost or a currency exchange change that happens that has thrown their original calculation off. It's just a function of then we would say to the supplier, "You made an error in your pricing calculation." It's usually just a minor adjustment, just to hit that retail price point, which often is a psychological price point that we want it to end up at the shelf. It's a function of our fixed mark-up system, and we don't have the flexibility to take that added margin, I guess, in this case. It's really most often caused by an error in the pricing calculation the supplier has done.

**Miss Monique Taylor:** So we would know through history of purchasing and—so we would say, "No, no, that's impossible. You couldn't charge that cost. You must charge it at this cost"?

**Mr. Bob Downey:** Yes, we could do that, but then we would end up with a price point at \$15.45, for example. It's usually—

**Miss Monique Taylor:** Are you only allowed to put on a certain amount of profit increase for yourselves?

**Mr. Bob Downey:** We have no flexibility.

**Miss Monique Taylor:** Is there a funding formula for you that you must stick to? Is that what it is? If I purchase at this, I can only add this much to sell it to the consumer. Is that how it works?



**Mr. Bob Downey:** That's right: It's a fixed formula that we must apply. We don't have any flexibility.

**Miss Monique Taylor:** So that's what it means by no flexible funding.

**Mr. Bob Downey:** Right.

**Miss Monique Taylor:** You have to purchase at a certain amount, to add this much on to get it to us, the consumer, at a certain price. Is that correct?

**Mr. Bob Downey:** And there are components of the pricing formula, like freight costs and currency exchange, that are variable from the time that you might first calculate the price to arrive at the market to when it actually arrives.

**Miss Monique Taylor:** So we're not actually telling suppliers, "No, you're not charging us enough"?

**Mr. Philip J. Olsson:** No, and I want to be clear—excuse me, this is Philip Olsson speaking. I want to be clear, because some of you may be aware that there were allegations—I'm not sure if they were proven or not—that one of the liquor boards was traveling to Europe to tell people to raise their prices because they use the markup system. We've never done anything of that type. I specifically instructed the management team that certainly no permanent employee would be doing that.

To use Bob's example, he's asking people to tender a product at \$15.95, and someone comes in with another number. What Bob's saying is, we're not tendering for that now. If you want to tender for a lower price, then wait till we ask for those. But normally, as he said, it's a product of some error on the agent's part.

**Mr. Bob Peter:** One of the things you have to realize is that the price of a wine, for example, is set by the supplier. If they decide that they're losing market share or it's not performing, the supplier can take their price up or down. Likewise, in spirits: the same thing. So they get initially in the system, and if they're performing, they can announce that Yellow Tail wine is going up from \$10.95 to \$11.95, that their costs are going up. That's how the market competes within the monopoly. Diageo and Bacardi all monitor each other. If Captain Morgan goes from \$24.95, Bacardi might go up or down to make sure they're not losing share. So there's lots of competition, and lots of competition in wine. People are very, very cognizant of what other suppliers are doing. That's where you get the competition in this particular model. But when you get a price coming in with the freight, which we never know until it finally arrives here, and it arrives at \$16.04—we're normally \$15.95 or \$16. So to adjust that with a fixed margin, you have to take it down a penny or two, or a penny or two up to, make it work.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Forster, you have two minutes.

**Ms. Cindy Forster:** Thank you. I just want to get on the record that I have noticed a huge improvement in front-line staff in the LCBO stores that I frequent here in Niagara and in Toronto over the last, say, three or four years. With respect to marketing products, there's always someone out on the floor, interested to talk to you, to get you to try something else, something different. In the old

days, you had a couple of people in there, and they were really just the cashier moving you through a line.

What percentage of your budget are you using to do this kind of training and education and what impact has that had on your profitability?

**Mr. Bob Peter:** Well, we do a lot of training, and every clerk has to take three compulsory courses—level 1, 2 and 3—of wine. We have another program called WOW Leaders; we have 305 or 310 of them for Ontario wines. They come down here to the wineries and so forth. We have beer advocates, people who are experts in beer, and we have spirits advocates in all the larger stores, the 300 larger stores, who go to training sessions. Then we have product consultants who are real specialists, paid more and trained more in the vintage area.

What my experience has been is that the more training we give these people, the prouder they are, and they want to share that information. So training is a really important part. Then we have all kinds of other training, whether it's special occasion permits and so forth. And then we train people on the whole area of the social responsibility, of Challenge and Refusal. We've invested a lot of money and time on it. We have a whole team that goes out, a knowledge resource team, that travels the world and makes films of all the different wine regions so these people know what's going on. We just did a big one down here a year ago in Niagara for the people to share. So we try to impart as much knowledge to the team as we possibly can, and we've found that that works in terms of once you know something, you want to share that with other people.

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**The Vice-Chair (Mr. Phil McNeely):** Thank you. That's time.

We'll go to the government side and Ms. Jaczek.

**Ms. Helena Jaczek:** I want to get back to the issue of social responsibility. I was pleased that you alluded to some of the evidence related to convenience stores in other jurisdictions where they sell alcohol. I'm a former medical officer of health for York region, so I have a great deal of experience with the Tobacco Control Act and the failure of clerks in convenience stores, very often, to do something as minimal as ID for age. This is something that I know the LCBO does very well on. Of course, you have the challenge-refusal aspect as well, and I notice your statistics have really improved in that regard.

You have a lot of seasonal staff. How do you deal with training, given the large volume and all those lineups at Christmastime? Does every seasonal, casual employee get this kind of training around the social responsibility issue?

**Mr. Bob Peter:** No one is allowed to go on the floor selling until they've had at least two days' minimum of training, and a big component of that is the social responsibility aspect. You're not allowed to ring a register or interact with any customers until you've had that.

**Ms. Helena Jaczek:** I just want to follow up on another potentially health-related question. In your 2010-



11 annual report, you talk about the testing of product. This is something, again, where there are some suppliers who have been questioning the need for LCBO to do this lab testing. Obviously, it's quite an expense. But I notice that something like 10.6% of the lab samples are, in fact, rejected. Could you just elaborate a little bit on what are the reasons for the rejection?

**Mr. Bob Downey:** We have a lot of technical standards that products need to meet, whether it's pesticides or some form of toxins, for example. So our testing is very rigorous on a number of different, varying tests. We really want to protect the public.

**Ms. Helena Jaczek:** What happens if you find a sample that includes something like a pesticide or perhaps is insufficient quantity? What happens to that supplier?

**Mr. Bob Peter:** If they didn't meet the standard, they wouldn't be listed in the LCBO. A lot of the ones that get rejected are often for insufficient labelling to meet the requirements in Canada. It's not just the liquid that's the problem; it's other packaging issues that come up.

**Ms. Helena Jaczek:** What happens in other provinces? How do they monitor?

**Mr. Bob Peter:** The only two provinces that have a lab are Quebec and Ontario. Manitoba buys our services. The other liquor boards—if the LCBO has listed it, then they feel confident listing it. Saskatchewan, in their recent Auditor General's report, was told they had to get this service, so they're coming to negotiate a new deal with using our services. They're taking a risk and a liability by not having it.

**Ms. Helena Jaczek:** Do you charge the other liquor control boards?

**Mr. Bob Peter:** Yes, we do.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I'm an enormous fan of your magazine. I know not everybody is, but I am. I like the recipes. I know that I can get the recipes online. Can I get the magazine online? That's my first question.

The second one is, not everybody is an enormous fan of your inserts. Part of the challenge is the glossiness, the fact that it doesn't seem to be on recyclable paper at times. Is that part of the marketing that you receive from your retailers, or is that something that comes out of the LCBO budget?

**Mr. Bob Peter:** Our advertising is all paid for by our suppliers. We try to do lifestyle advertising, and it's aspirational. Our paper is recyclable.

Going back to your Food and Drink example, I don't think there are many magazines or flyers that people retain in their house or cottage for years and years. Food and Drink is available online now.

We try and show a lifestyle of matching food with—pairings and so forth, and it has been very effective.

**Mrs. Donna H. Cansfield:** I agree with you. I think I've got every copy, going back as far as I can remember. I must admit, I've just kept the recipes, just so you know.

**Mr. Philip J. Olsson:** I'd just like to make a comment, because not everyone has been in politics long

enough to have every copy of Food and Drink. The magazine started, not as an attempt to generate revenues—although it does pay for itself nicely now—but to encourage social responsibility, because we found, in the early years of the modernization of the LCBO, that people didn't know how to entertain properly with alcohol and they didn't know how to pair wine with food. In fact, responsible entertaining and the consumption of wine as an enhancement to food, rather than simply as an alcoholic beverage, was critical. That's the origin of Food and Drink magazine.

**Mrs. Donna H. Cansfield:** I thank you, personally.

We talked a little bit about the testing and how important testing is, but I was thinking of it in terms of the wines that you might be able to get at the farmers' market, for example. I didn't know that if a particular stem ends up in the wine, it in fact can produce some severe side effects. If you were looking to do fruit wines and other opportunities for sales, how would you find a way to do the testing and assessment on those prior to any kind of sale? If you want to talk about a liability, that certainly could be a significant liability.

**Mr. Philip J. Olsson:** We haven't encouraged it, so we don't have an answer to that question. If I could just make a statement out of the question: It would seem somewhat illogical to allow products to be sold for convenience that haven't been properly tested, as every product you find in our store has been.

**Mrs. Donna H. Cansfield:** Thank you. My last question is: If you had something that you would like to be able to do that you have not been able to—if you had a magic wand, as it were—what is it you would like to do?

**Mr. Philip J. Olsson:** One thing that we have been allowed to do—as I mentioned earlier, we've been in discussions with government for many years—is to materially enhance our capital program, and that has been granted. In fact, the only area of staff increase in our organization has been in the people who look after that particular program.

There are many things we might aspire to do, but because of their effect on other constituents or the political impact, we tend to be very cautious about making statements of that type. Bob, do you have something you'd like to mention?

**Mr. Bob Peter:** Just on that line that Phil mentioned on additional capital, you have to realize that the LCBO started in 1927, when spirits were the main product. Well into the late 1950s, table wine really was, if you look at the old product listings, non-existent. We still have a lot of stores that are left over from that era which we've been trying to build and replace. The stores we build today are much larger, which allows us to feature the expanded wine portfolio—which really only took off from the 1980s onward; it was very small, prior to that, and it has continued to grow—and to put in an expanded beer assortment, for the craft beers and all the other things. As we're building new stores, we're finding: Are we building them big enough? Are we having to go to four-level shelving and so forth? It's a work in progress,



and it's replacing a lot of stores that were built in an era which was just rye, whisky and rum and so forth and very little else. We still have some of those stores, which make it difficult for us to execute all our programs, but over time we'll get them replaced and housing the proper assortments.

**The Vice-Chair (Mr. Phil McNeely):** Well, that's—  
*Interjection.*

**The Vice-Chair (Mr. Phil McNeely):** I'm sorry; you have another 30 seconds.

**Mr. Philip J. Olsson:** Just a comment: I'd say, generally, government has been very supportive of things that we want to do that fit within overall public policy. We have to deal constantly with the wishes of constituencies to improve their position with the LCBO, and they're not bashful about going through the political process. But I take that as a sort of normal course, and that's why I'm paid these big bucks to do that.

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much for coming this morning. We'll see you again on Wednesday, I believe, down in Trenton.

There's lunch for members and employees just next door. We are recessed until 1 o'clock today. Thank you very much.

*The committee recessed from 1151 to 1302.*

**The Vice-Chair (Mr. Phil McNeely):** Welcome back. We are proceeding with the stakeholder presentations. Each stakeholder has 10 minutes for their presentation, following which each caucus will have 10 minutes in a round for questions. The questioning will start from the official opposition.

#### WINERY AND GROWER ALLIANCE OF ONTARIO

**The Vice-Chair (Mr. Phil McNeely):** Our first delegation is the Winery and Grower Alliance of Ontario. For Hansard, make sure you give your name when you start. The time is yours, the 10 minutes.

**Mr. Patrick Gedge:** Thank you very much, Mr. Chairman. We certainly appreciate the opportunity to be here today. I will actually read our presentation that comes to approximately nine minutes, because if I actually talk about it, it would be 20 minutes. So I'll try and keep it very succinct.

On behalf of the Winery and Grower Alliance of Ontario, WGAO, we look forward to discussing with your committee opportunities to grow the grape and wine industry in Ontario through the LCBO. I'm Patrick Gedge, president and CEO of the WGAO, and I'm accompanied by WGAO member representatives Roger Vail, who is a member of our board of directors and a grape grower; Shari Niles, at the end of the table, executive vice-president, marketing, for Andrew Peller Ltd.; and to my immediate right, Anne Givens, who is vice-president, sales, Ontario-Atlantic, for Constellation Brands.

As background, the WGAO encompasses both wineries and independent grape growers as members, because we believe that the industry has to grow in a manner that

benefits all parts of the industry. The WGAO represents both VQA and non-VQA wine produced in Ontario. Our members produce the majority of the volume of VQA wine in the province and, in total, represent some 85% of all the wine produced in the province. Our members also purchase over 85% of the wine grapes grown by independent farmers.

There are basically two types of wine produced in the province: There is the Vintners Quality Alliance, VQA, wine, which contains 100% Ontario grapes; and international-Canadian blends, ICB wines, that are a blend of Ontario grapes and imported wine. Both categories compete against imported wines, ICB generally in the under-\$10 segment and VQA over \$10. ICB wines are meeting the needs of the value-conscious consumers who want a consistent and predictable wine, while VQA wines are appellation- or origin-based wines that reflect the terroir of different regions in Ontario.

It's important to note that ICB wines produce the most economic value to Ontario and represent 75% of all Ontario-produced wine sales. They also utilize the majority, 54%, of the grapes grown by grape growers. VQA wine makes up 25% of the sales and uses some 46% of the grapes. As a result, in order to grow the entire industry and benefit all wineries and all grape growers, both VQA and ICB need to increase sales in the marketplace, particularly through the LCBO.

Provincially, imported wines dominate our home market, with a 69% market share, and Ontario-produced wines with the remaining 31%. In most wine-producing countries or regions, their domestic wine market share is normally over 75%. Ours is about the reverse.

As WGAO, let me make it crystal clear we support the LCBO and its structure for selling wine in Ontario. It's a highly efficient and effective organization and has a clear plan to expand and modernize its store system in Ontario, which will benefit both consumers and our industry.

The LCBO distribution structure makes selling wine in the province as a one-stop-shop system much easier for wineries in this province. Now, are there opportunities for improvement? Of course. Our sales, marketing and distribution costs need to be kept reasonable within the LCBO channel so that the industry can focus its time and investments on creating quality wines and introducing new brands to meet consumer needs.

Over the years, we've heard many ideas about the establishment of new distribution channels in Ontario over and above the LCBO. While we're always open to new opportunities, we have yet to see any analysis of another distribution channel in Ontario that would make economic sense in the province. In fact, many of these ideas would simply cannibalize our sales from the LCBO, increase the sales and marketing costs of all wineries, especially smaller VQA wineries, and provide another opportunity for imported wines to own even more of our market.

We are aware that the Auditor General made some recommendations about increasing profitability of the LCBO by allowing suppliers to price products at the



lowest level possible. While on the surface this sounds reasonable, it could lead to a price-cutting competition through a public body. Under such a scenario of price-cutting, the ability of all Ontario wineries to compete, remain profitable and pay reasonable market prices for Ontario grapes could be in jeopardy. The beneficiary of such a change would invariably be those suppliers from other countries that have massive economies of scale and lower production and grape costs, and in some cases can both dump product and benefit from domestic subsidies.

As an industry in Ontario, we know that 70% of our growth in VQA wine is based on new products to the market. As a result, the industry is investing its dollars into promotional and marketing opportunities with the LCBO and investing in the new products to generate new growth. Driving consumer demand for Ontario wine is the ultimate goal, which results in additional revenue to the LCBO and new jobs and investments in the industry and the province.

We believe there are many opportunities that will support the mandate of the LCBO as well as increase sales and enhance the profitability of all wineries and growers in Ontario. Industry solutions need to be based upon the quality and value of Ontario wine in an open marketplace, not artificial regulations that in reality hinder competitiveness and innovation.

An opportunity worthy of consideration for this committee in order to increase profitability of the LCBO and treat all suppliers equally would be to move away from a fixed margin to a variable or ad valorem structure. The result would be margins that relate directly to the retail costs of products. More income would be generated to the LCBO from higher-priced products. This system is in place in many jurisdictions very successfully, including British Columbia, Nova Scotia and Saskatchewan.

Also, while it's impossible for the LCBO to be all things to all people, we've recommended to government that Ontario wine be sold through farmers' markets—again, like many jurisdictions throughout the US and Canada—and that 100% Ontario grape non-VQA wine be approved for direct delivery to licensees. Both initiatives would be particularly beneficial to small wineries in the province.

There is a fundamental need for a cohesive, long-term strategy between the LCBO, government and the domestic grape and wine industry in order to grow a sustainable and profitable industry. As a result we recommend:

(1) Create an LCBO-Ontario industry task force to establish a partnered plan and action steps, reporting back by the end of the year, that would set aggressive but achievable sales and market share targets for VQA and ICB wines at the LCBO for 2013-14 onwards.

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(2) Identify opportunities to reduce unnecessary red tape and administrative costs, saving money for both the LCBO and industry.

(3) Have the LCBO and its senior management incorporate VQA and ICB growth targets as a significant part

of their performance management and bonus system for fiscal 2013-14.

Finally, while we know the committee's focus is on the LCBO, the government of Ontario should name a specific political lead or champion for the Ontario grape and wine industry in order to facilitate communication and coordination across government. Due to the nature of the industry, there are multiple ministries, regulatory bodies and agencies that impact the future success of the Ontario grape and wine industry. We need a strategic and holistic approach to ensuring that the Ontario government achieves its policy objectives while at the same time the Ontario grape and wine industry grows sustainably and profitably for both wineries and grape growers.

WGAO is very appreciative of this opportunity to present to the committee, and we look forward to any questions or comments that you may have.

**The Vice-Chair (Mr. Phil McNeely):** Thank you for the presentation. We'll go to the opposition party for questions. Mr. Hardeman.

**Mr. Ernie Hardeman:** Thank you very much for your presentation. I have a couple of questions, and I'm sure my colleagues have some too. I was wondering, on your ratio of Ontario grape and the percentages of how much is domestic market wine, how come there's so much less grape in the majority of the wine we sell? If that's how it goes, is there any advantage for us marketing more blended wines rather than focusing on Ontario grape wine, which would be VQA?

**Mr. Patrick Gedge:** Let me start the answer, but I think my colleagues may have other comments. We're talking about very different segments in the marketplace, and ICB wine, the blended wines—like in any other country, it's very normal to have blended wines—is highly price-sensitive. The only reason that one has foreign wine in those bottles of wine is so that you can be at the price points that the consumer is looking for and of course continue the taste profile that they expect and want. While there are regulations related to wine content, at the end of the day, the success of ICB wines is based upon having very strong price points and quality and being able to do that in a very strong and tough marketplace.

**Ms. Anne Givens:** I think the importance of the ICB wines is to create a barrier and help protect our VQA wines. It's really hard to sell really good-quality VQA wines at \$10. But you're seeing a lot of things like brands from the United States, Chile and Argentina coming in at \$8, and the only way that Ontario can defend that is through ICB. So it's really important for both to grow.

**Mr. Ernie Hardeman:** My question relates more to, if the percentage of imported juice or product going into the domestic wines under \$10 that we're trying to capture is at the expense of not capturing enough of the market of over-\$10 wines, aren't we losing ground in the grape wine industry in the province? If in fact we're not seeing enough increase in the VQA and we're seeing more increase in blended, which is mostly Chilean grape,



what's the advantage to the province in encouraging a program that way?

**Mr. Patrick Gedge:** As an industry, our primary goal is to increase the VQA sales. The members of the WGAO produce the majority of the VQA in the province. It's obviously in our interest to promote that. But at the end of the day, it's a question of consumer demand as well. You can only produce what, at the end of the day, someone is actually going to buy. While we've had good growth rates in terms of VQA and want to continue that, it still only makes up less than half of the grape crop. Again, by having ICB wines, which make up the majority of the grape crop, that allows you to have demand for the grapes, pay for the grapes and compete in both sides of the marketplace. Over time, ideally, we'd like the VQA to continue to increase its percentages, but again, right now, VQA is 25% sales, ICB 75%, and in terms of grape usage, it's 54% of the grapes that go into ICB and 46% into the VQA.

Obviously, it's not something that's going to change in one, two, five, 10 or 15 years, that you're not going to need both of them in order to purchase all of the grape demand that is out there while at the same time being able to compete in the two major segments in the marketplace.

Does that give you a sense of it?

**Mr. Ernie Hardeman:** Thank you very much. The other part I couldn't quite get my mind around when you were making your presentation was the issue—it's on page 3 in the second paragraph—about, "We are aware that the Auditor General made some recommendations about increasing profitability of the LCBO" based on buying the wine at a competitive price. You're suggesting that that's going to hurt our wineries. I guess that tells me we're not competitive in the wine industry. Is that—

**Mr. Patrick Gedge:** No. I think as a developed wine industry, we are in fact very competitive, and our sales do increase each year, so the consumer demand is there. But it's also recognizing that in other countries, you've got completely different economic models that are there in terms of (a) the size of their market, and therefore the economies of scale; (b) what they are paying for grapes versus what we're paying for grapes; and (c) quite frankly, in a lot of those countries, they have an infrastructure of high agricultural subsidization. From that standpoint, choose the phraseology, but we're not really on a level playing field in terms of our cost structures.

If the issue in the marketplace becomes who can price down the fastest, then quite frankly, imported wines from lower-cost countries are going to be able to price down a lot faster than we can. Even today, the margins of our industry are extremely low, and we want to keep being able to invest in our industry to get new products out there to consumers. But at the same time, we want to make sure that we're competitive so that we're buying all of the quality grapes that are growing in this province at reasonable prices.

**Mr. Ernie Hardeman:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Pettapiece.

**Mr. Randy Pettapiece:** Thank you, Mr. Chair. I have a question here. It's on page 4. It's the second paragraph. The direct delivery to licensees: Is this a cost-saving measure for you? Is that what you think will happen if you can do this?

**Mr. Patrick Gedge:** No, it's much more giving the flexibility to wineries in terms of being able to price their products to the marketplace, to licensees. It's not a question of substituting the quality VQA that goes to licensees as much as giving the businesses more flexibility to hopefully increase our percentage of licensee sales.

**Ms. Anne Givens:** It's Anne Givens. What happens in licensees—as you know, with the economic downturn, their business has really been struggling, so they try to get their money through the markups. One of the ways that they can do that is for less expensive wine. It's very hard for them to buy products, let's say, at the LCBO and be able to mark that up two and three times and make their profit. If we can direct deliver it, we can certainly have specialized products for them, and then we deliver that to the restaurant and they actually consume more Ontario wine. So for the smaller producers, it's really beneficial for them to do that.

**Mr. Randy Pettapiece:** Would you have to set up some kind of storage facility, say, in the eastern part of the province or the northern part of the province to do something like this?

**Ms. Anne Givens:** Not necessarily. The licence is to ship from your winery facility, and then you courier it throughout the province.

**Mr. Randy Pettapiece:** I have one more question. Red tape is a hindrance to business, not only your business. In fact, some people just give up because of some of the hoops they have to jump through. Can you identify some of the unnecessary red tape, examples that you feel would help you with your industry if we got rid of some of these pieces of legislation?

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**Mr. Patrick Gedge:** Just as a general comment on that, this is one of those things we keep hearing about throughout the industry. Even government people are coming back and recognizing a lot of the administrative requirements that they've put on the industry have sort of evolved over the decades, and as they've added in new things to do, they haven't taken away the old things to do. So I think there is a general consensus that there are some real opportunities there.

Sometimes the problem is that you can't change 100 things at one time. When we've had discussions with the government—and we're not there yet—it's saying, "Look, could we focus on three or four things that both the industry and the government are willing to make changes on and that those changes will have some significance?"

One of the examples that I keep getting from different wineries is dealing with all of the audit requirements that they have. In fact, they get the feeling that they've got two or three different auditors coming in and actually



doing the same audits as the other people, as opposed to simply auditing at one time and then you can share the information with the other agencies.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. Your time is up on that. We'll move to the third party and Ms. Forster.

**Ms. Cindy Forster:** Thanks for being here today with us. Could you expand a little bit on the second to the last paragraph on page 2 about, "Our sales, marketing and distribution costs need to be kept reasonable within the LCBO channel," and what that means to the price of a bottle of wine or the product?

**Mr. Patrick Gedge:** Shari?

**Ms. Shari Niles:** I'll let you start, Patrick, and I'll jump in.

**Mr. Patrick Gedge:** I guess making the point there is that we know on one level that the LCBO has to have standards and structures for all types of wine that are in the marketplace. I don't think anyone reasonably would expect them to do certain things at a loss, particularly given the financial issues that they've been dealing with.

But at the same time, there should be a recognition that there are—again, particularly for smaller wineries in the province, their ability to be able to absorb those costs is certainly a significant challenge, particularly if they haven't got a stream or a volume that's able to go through their entire system. Those are some of the concerns that we've certainly heard from them.

**Ms. Shari Niles:** Maybe I can focus on the second part, as a marketing person in the Ontario wine industry. In terms of Ontario wines and where we've come from, we do have a bit of baggage, so it's almost like you have to over-deliver in order to have table stakes with our import competitors.

We also know that of all of the alcoholic beverage segments, whether you're talking about spirits, wine or beer, wine is the one that's most sensitive to innovation, and the consumers within that segment are looking for new news, something exciting, all the time. What's most important for us to succeed and grow the VQA business is to be successful with innovation, whether it's packaging product or new types of wine that haven't been out in the market. I think we've seen that in the marketplace, a couple of years ago, a real influx of new VQA products and the volume of VQA really exploding. We need to keep our focus on that if we're going to increase our share of the VQA market.

**Ms. Cindy Forster:** Thanks. I've got another question. Product testing: How does that work in the small wineries versus the bigger wineries? When we actually had the presentation from the LCBO this morning, they talked about product testing and the cost of it; other provinces now actually looking to Ontario to get product testing done. If there was a move to put the product out to farmers' markets, for example, what impact would that have on product testing? How would you accomplish doing that?

**Ms. Shari Niles:** Do you mean the product be tested before it went to the farmers' market?

**Ms. Cindy Forster:** Yes.

**Ms. Shari Niles:** Certainly the question is—and I don't know in terms of—

**Ms. Anne Givens:** The LCBO does a fantastic job in testing product, and I think that could be a real revenue stream for the government, whereby all products, whether they're direct-delivered or sold in a farmers' market or wherever it be sold, need to get that stamp of approval by the LCBO, certainly if you're launching for the first time—perhaps not every vintage. Certainly, the LCBO can be that governing body. They've done a fantastic job.

**The Vice-Chair (Mr. Phil McNeely):** Miss Taylor.

**Miss Monique Taylor:** Thank you for being here with us today and sharing your afternoon with us.

I have a question regarding the bottom paragraph on page 3. It said, "to increase profitability of the LCBO and treat all suppliers equally, would be to move away from a fixed margin...." Now, if I believe I got it correctly this morning, that was moving away from that fixed margin and into the ad valorem structure—the flexibility. Is that correct?

**Ms. Shari Niles:** Or variable.

**Miss Monique Taylor:** Right. My understanding is that moving into the flexible way of doing it would actually be more of a cost to our local producers. Could you comment on that?

**Mr. Patrick Gedge:** The basic concept is that, at this point in time, you'll have the same dollar charge against any bottle of wine, regardless of its price. I'm going to invent numbers: If the charge against an \$8 bottle of wine is \$2, then a charge against a \$50 bottle of wine is \$2. So that's your fixed.

What they do in other provinces is it will be based on a percentage that is related to the cost of the bottle of wine. Again, I'll invent numbers: 2% on an \$8 bottle of wine and 2% on a \$50 bottle of wine. So the actual revenue that's generated is going to be more on the more expensive wine and less on the less expensive wine.

From a competitive standpoint, if you look at Ontario wine versus imports, our wines as a whole are priced less than imported wine.

So it's something that we think would be beneficial for our industry. Again, it's done in other provinces. You're able to run models in terms of, what would the appropriate amount be? Quite frankly, the price sensitivity of a consumer buying a \$50 bottle of wine is a little different than the price sensitivity of a consumer buying an \$8 bottle of wine. So we think it would be good in terms of competitiveness generally. Because of the consumer segments you're dealing with, the real effect of doing it more so on the much higher-priced wine is much more acceptable to people who are buying the higher-priced. At the end of the day, it may be an opportunity, over time—as all wine gets more expensive and moves up the scale, then the total revenue going to the LCBO will increase.

**Miss Monique Taylor:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** You have one more minute.



**Ms. Cindy Forster:** What is the economic impact of the wine industry to the province of Ontario with respect to the number of jobs it creates and the amount of money that gets funnelled into the economy?

**Mr. Patrick Gedge:** I cannot tell you how delighted I am with that question. The reality is, today we do not know. The last study that was done that covered the entire industry—and even it had weaknesses to it—was done in 2007. It estimated, for example, the number of jobs in the industry at 7,000. When you actually looked at that study, you discovered that some things like tourism were actually not fully accounted for. That was 2007; we're in 2012 now.

We've actually just initiated, over the past month, an economic impact analysis of the grape and wine industry in Ontario, just in order to get up-to-date figures. We've been able to also get the province of British Columbia and the province of Nova Scotia to join us so that not only will we have the same methodology and approach being used in Ontario to evaluate economic impact, but it will be the same methodology and approach in BC and in Nova Scotia. That, frankly, will allow us to do more intelligent benchmarking in the future, when people are talking about what we can learn from each of the industries, and it will also allow us to aggregate that up to have a better national view as to the value of the industry, and that's of course very important when we're dealing with the federal government.

1330

**The Vice-Chair (Mr. Phil McNeely):** Thank you. Your timing is impeccable. Thank you, Patrick Gedge. Time is up. We'll go to the government and Ms. Jaczek.

**Ms. Helena Jaczek:** Thank you very much for coming this afternoon. I'd like to get at the issue of market share. In your presentation you mentioned that Ontario-produced wines have a 31% share here in Ontario, and you allude to other countries having obviously a far higher percentage. I guess my question is, what would this have looked like, say, 10 years ago? What were both ICB and VQA Ontario wines—what was their share of the market then?

**Mr. Patrick Gedge:** I don't have all the figures with me, but the bottom line is that over the past 10 years, our market share has not changed. As the total sales of wine have increased, we've retained basically the same market share of Ontario product as have the imports. So from a market share standpoint, we have not eaten into the imports market share, but both categories have increased their sales over the years. Obviously, given the percentage of penetration by the imports, their absolute sales have gone up through the roof over 10 years while ours haven't, because we have a much smaller market share.

**Ms. Helena Jaczek:** So that's notwithstanding the extensive shelf space? I know when I go into the LCBO, there seems to be this huge promotional effort related to both VQA and ICB. So you're saying you're just keeping pace?

**Mr. Patrick Gedge:** We're just keeping pace.

**Ms. Helena Jaczek:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Craitor.

**Mr. Kim Craitor:** Thank you. As I said, this is pretty cool. I was telling the LCBO that in eight years as an MPP, I've never seen them. I've never, ever got to meet them. The reason I say that is, this is the first time in eight years I've actually had all the stakeholders in the same room. I'm used to seeing yourself, WGAO; I'm glad to see Debbie Zimmerman, who represents the growers, and Hillary is here, and the LCBO. That's a first. So I'm going to say a couple of comments, because I've got you in the same room.

Since eight years, probably the number one topic I've had as an MPP is wines. Logically, it makes sense because in my riding, your riding, that's one of the major industries, one of the major, major industries. So I'm going to say to all of you, because you're here, it's about time that we all worked together. I'm not being critical of anyone, but it's about time.

Patrick, you mentioned a couple of things in here, so I'm going to repeat them. You know my philosophy is that no grape belongs on the ground; it belongs in the bottle for Ontario wines. I've said that over and over, and it's something I passionately believe in. I've tried everything I can think of to make that happen, along with all of you.

I'm going to say, number one, I do believe the government, my government and all governments—it's time that we do have a special committee formed. It's time that we work, as a government, collectively. You are so right when you say that there are so many different government agencies that deal with wineries. I'm going to tell you, at the bureaucratic level I've learned that they do not even communicate with each other. It's very frustrating for me as a politician. So, number one, I totally agree with that, and I know all the other stakeholders would agree with that.

Number two, I think it's time that you collectively work together. I'm not being critical. I get the opportunity, to my colleagues—I get WGAO that comes in, then I get the grape growers that come in, then I get the wine council that comes in, so I hear all their different positions. I'm telling you, in order to achieve things through the government, you need to have one voice and you need to be going in the same direction. But to try to have three different voices going in three different directions and then trying to get a government trying to decide what's the right way to go, it just isn't going to work. It's kind of similar to what we do at regional council, when you come in and have that regional council day for the Niagara region. It works. So I'm hoping, since you're all in the same room—I told you, it's the first time I've ever seen this in eight years—that maybe this time we can do that.

Finally, I want to say that we do have a good system, with the Grape Growers of Ontario. They represent the growers; they negotiate the prices. I think that works well. VQA works well. We fund them, but they're certainly trying to promote, and doing a good job at VQA—and yourself, representing the big wineries and



the smaller ones together. You really have an opportunity to move government forward, but you've just got to do it collectively—and I keep repeating it, because that's what it's going to take.

You don't have to comment. It's meant for everyone who's in the room—from all the stakeholders that I have the pleasure to meet and know and try to work with.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I guess there's a difference of information, because I have from the annual general meeting of the LCBO that in fact Ontario VQA Vintages wine sales grew by 7% over the previous year and are anticipated to grow as well, and that total key trends in Ontario—ICB and VQA are up 6.9%. So there is an opportunity for growth.

I have two questions. One relates to, there are programs that support and encourage Ontario wines. I would suspect they are very closely watched by NAFTA, because there are some real challenges here. So what are the opportunities that you see over and above what I call the art of the possible in terms of what can be done to encourage additional sales?

My second question is, if I recall from my other days, it's Moscato as Baby Duck, right?

**Ms. Shari Niles:** Moscato the grape?

**Mrs. Donna H. Cansfield:** Yes.

**Ms. Shari Niles:** No, it's not Moscato in Baby Duck.

**Mrs. Donna H. Cansfield:** Which one was Baby Duck?

**Ms. Shari Niles:** Baby Duck is a sparkling wine product. It's just not Moscato-based.

**Mrs. Donna H. Cansfield:** What's the grape?

**Ms. Shari Niles:** Vidal.

**Mrs. Donna H. Cansfield:** Oh, Vidal. Because this is the great rage, I hear, in New York or something, and I'm starting to worry.

My question, actually, isn't related to that. It's related to the change in climate and the ability of the different kinds of grapes to adapt in terms of, you've got a longer summer, a hotter summer, less water, all of those things. Do you see a trend in the change of the type of grape that you're growing—the quantity and the production, that end of it—and how you think, taking that out a few years, that's going to change the industry going forward?

I have those two questions.

**Mr. Roger Vail:** Grapes are definitely changing in the future and even now. As growers, we are trying to expand our actual plantings. We're developing new varieties. We're taking on new significant plantings, investing huge amounts of money based on the fact that we know that the future is very, very strong. There is the doomsday attitude of 2014—when the Wine Content Act is going to sunset. But if you're a good grower and you work with your buyer, you always will find a market for your product.

The Moscato rage: Yes, California took off. Gallo went from zero cases to five million cases in a year. It is something that is there. I'm actually growing some Mos-

cato now. I imported the vines from California. I'm the only one in Canada growing them.

The market overall, when we look at WGAO compared to grape growers overall—63,000 tonnes of grapes last year, the majority of it going into ICB wines. I represent growers, because of the fact that I feel that I've got a lot of friends out there; and we're not all VQA growers. We're not against VQA. We know VQA has to grow, and that's where we want it to be. But if we only rely on the VQA, we could end up finding ourselves not growing grapes. We're in a greenbelt. We have to grow, and the way we do it is by being fiscally responsible, trying to produce the grapes as cheap as we can to be able to give them to the winery. It's a challenge, but the market is there and it's good.

**Mrs. Donna H. Cansfield:** And the second part of the question—

**The Vice-Chair (Mr. Phil McNeely):** Thirty seconds.

**Mrs. Donna H. Cansfield:** It was around the opportunities you see in terms of the art of the possible vis-à-vis NAFTA.

**Mr. Patrick Gedge:** I think there are all sorts of opportunities. The existing government programs that exist—there are three of them. The Ontario Vineyard Improvement Program through OMAFRA, and the VQA marketing program, VQA support program, through MEDI, have absolutely no relevance on free trade or breaking free trade. Those are straightforward programs and they've never been even questioned in terms of the free trade context.

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I think one of the most important things is to make sure that the programs that we have are operating as efficiently and effectively as possible in providing the ROI that both the government needs for any business support program but also that the industry needs in order to make it successful. None of us has come forward and suggested that there should be a whole slew of additional programs by the government, because quite frankly we recognize that you're not in a position to put more dollars in the marketplace. But work with us as an industry to make the dollars that exist work harder for us and harder for you. That's our key focus.

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much. We're out of time. Thank you very much to the Winery and Grower Alliance of Ontario for being here today and giving us this good information.

## GRAPE GROWERS OF ONTARIO

**The Vice-Chair (Mr. Phil McNeely):** We'll now go on to the Grape Growers of Ontario and we'll start with the third party after the presentation.

You have 10 minutes for your presentation.

**Ms. Debbie Zimmerman:** Thank you very much and good afternoon. I wanted to just begin by saying, on behalf of the over 500 members of the Grape Growers of Ontario, thank you for this opportunity to present our thoughts and ideas as you deliberate and review the



LCBO. It is of note that the GGO as an organization is, in 2012, celebrating 65 years of service to its members and industry. You must be wondering why this is important to today's hearings, but it's critical to understand our industry's growth and the importance of our partnerships.

Winston Churchill once said, "The farther backward you can look, the farther forward you can see." What we do know over 65 years of grape growing in Ontario is that the LCBO has been an active partner in our industry. The very fact that the government of Ontario regulates alcohol through the LCBO makes the government the de facto senior partner in the Ontario grape and wine industry, which makes this critically important to the ongoing success of the grape and wine industry.

In 1999, we came together as an industry to create a shared vision for the future—winemakers, growers, the LCBO and government. This common destination, or as the document was called, *Poised for Greatness*, mapped out a course for the next 20 years. This collaborative approach with all partners was clear and set critical targets that would be met incrementally until 2020.

The following is a quote from the 1999 plan: "In Ontario, people who love wines will be voting with their wallets. More than 60% of their purchases will be rich Ontario reds or crisp fruity whites. In the vineyards of the Niagara Peninsula, Pelee Island and along the north shore of Lake Erie, more than 90% of Ontario grapes will be used to produce VQA wines." Optimism was high in 1999, and sales of Ontario wine at that time accounted for 42% of all sales. Industry sales targets were set to grow at 6% annually, with the expectation that in 2011 the domestic share of total Ontario sales would be 50%. The LCBO had committed, through its own brand vision, to ensure the Ontario wine section would become a destination for wine lovers, expanding vintages, which focused on the industry's signature wines, increase self-space, and reinvent the Ontario wine section and assist small wineries to participate more effectively at the LCBO.

Fast forward to 2011, and sadly, the expected 50% domestic share of sales in Ontario has faded to a mere 39%—I heard 31% today, but you're going to hear a lot of different figures. This decline should not be seen as solely the LCBO's responsibility as they are only accountable for the distribution channel they control. In Ontario, wine is sold through the LCBO, off-site winery retail stores, on-farm wines stores and direct delivery to licensees. In fact, each of these distribution channels has different markups, adding more complexity to the issue of selling wine in Ontario.

It is, however, widely understood that the Ontario grape and wine industry is a key economic driver to the Ontario economy. With over 15,000 wine grape acres in the province, each acre of grapes produces provincial tax and levy revenue of \$12,758 per acre. Additionally, if you factor in the economic impact of Ontario wine sales, the total impact to the province is \$33,000 per acre, and if you multiply that by 15,074 acres, we have an overall benefit to the province of around \$500 million.

It should be noted that an imported bottle of wine delivers only 67 cents of economic impact benefit as compared to the direct and indirect value-added economic impact of 100% Ontario-grown wine at \$12.29 a bottle.

The LCBO knows that Ontario wine provides a good return to the Ontario taxpayer and to the government as the LCBO has created campaigns such as Go Local and, launching this year, I Love Canada; and we have no doubt they're willing to do more. The Ontario government knows 100% Ontario wine provides a good rate of return as they have invested over \$9 million per year for the past seven years in the wine sector and have provided grape growers \$3 million in each of four years to invest and improve their vineyards. The economic return of our Ontario industry is clear and measurable, and meets all of the tests of the recently released Drummond report. In fact, Drummond recommended that the LCBO "continually compare the merits of providing supports to Ontario producers against the desired policy outcomes." Drummond also suggested that the LCBO be maintained as a government business enterprise. We also agree with this recommendation.

What we need now is the government of Ontario to direct the LCBO to set clear, measured targets for growth in the Ontario wine categories and vintages, targets that are specifically designed for domestic growth and will include doubling the volume in vintages in a year. These targets should be reviewed annually, with consultation from the industry. A new transparent scorecard should be developed with the industry to track these key metrics.

Our focus as growers is growth in Ontario wines, because, as stewards of Ontario's greenbelt, most of Ontario's vineyards are covered by the Greenbelt Act, 2005. We're expected to maintain this agricultural base. We can't remain profitable or sustainable if we don't have a collaborative approach.

Promoting Ontario wine though the LCBO is good for the entire value chain. We also support the opportunity for 100% Ontario-grown wines to be sold at farmers' markets.

It is not my intent today to provide a list of suggestions to change the retail merchandising practices of the LCBO as they have qualified staff for that. The GGO supports the LCBO as the socially responsible distribution channel of choice for Ontario consumers, but we want the government of Ontario to direct the LCBO to ensure their reporting metrics reflect the economic impact of our industry in their stores and programs.

As your partner, we applaud the decision to open an additional 32 stores and the expansion of shelf space that is the equivalent of 40 retail stores over the next few years. Keep up the good work. But our ask is that the government of Ontario reset and create specific targets for growth of Ontario wine at the LCBO, targets that are agreed upon by all partners.

Owning only 39% of our home market is not acceptable. As grape growers and stewards of the 15,000 acres in Ontario, maintaining the legislated greenbelt, we're



not asking for any special privileges; we just want our fair share of the marketplace in our home province. Thank you very much.

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**The Vice-Chair (Mr. Phil McNeely):** Thank you very much for the presentation.

We now go to the third party. Miss Taylor.

**Miss Monique Taylor:** Thank you very much for being here with us today. There have been some suggestions that an alternative-store system to sell wine in Ontario might include selling imported wine or fine wine. Can you provide some additional information on this proposed wine store system and how it would impact grape growers in Ontario?

**Ms. Debbie Zimmerman:** There has been a proposal—and I don't think it has yet been considered by the government to any great degree—for an alternative distribution channel to sell fine wine, and it would also, to perhaps meet trade challenges from NAFTA, include imported wine.

We've looked at the system and we've analyzed it. In our preliminary review, it looks like it would only sell about 45 more tonnes of grapes per store, so we think that system alone would just continue to dilute the marketplace. It's one of the reasons why we, in fact, support the LCBO but encourage them to set more local targets and more targets for 100% Ontario-grown.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Forster.

**Ms. Cindy Forster:** Thank you, Debbie, for being here with us today.

I just have one question, about the direct delivery to licensees. Are there currently direct deliveries to some licensees? We talked about that with our previous presenters, and I wasn't aware that there were.

**Ms. Debbie Zimmerman:** Yes. There's a direct-delivery benefit to licensees, and it's only for VQA wines. I think the difference is, for 100% Ontario-grown, is what was trying to be articulated prior to your question, and that would be a direct-delivery benefit to, say, banquet halls and specialty products. So there would be a direct-delivery benefit for those that are not VQA. That would be probably one of the asks for 100% Ontario-grown as well.

**Ms. Cindy Forster:** My second question is around the economic impact of Ontario wines—the sale of Ontario wines versus imported wines, so—

**Ms. Debbie Zimmerman:** There are actually three categories. I should be clear. There are imported wines; there are blended wines, which have less than 30%—now 25%—in the bottle—and, of course, our main concern is, when 2014 comes around and that policy lifts, that we will be in oversupply by 9,000 tonnes. The government of Ontario is well aware of our concerns. The 40/25 is an important policy that is allowing for growth in both VQA and ICB. But the intent is to grow more VQA wines in this province, and that is the category we're focused on, as growers. We certainly deliver a lot of grapes to the international-Canadian blend, but we want to see more growth and we support the government's initiative in

2009 to see that growth move forward. So, 40/25 as a policy is of great concern to us. So we have imported wines; we have blended wines; we have VQA wines. In that ICB section is also considered 100% Ontario wines. So you could have a blend of both wines that have around 25% in the bottle currently, or other wines that are 100% Ontario or have a variety of content in a bottle of wine. Obviously, our focus is on the growth of Ontario, because that has the best benefit for all of us, going forward.

**Ms. Cindy Forster:** So what you're looking for is to actually have that policy extended past 2014.

**Ms. Debbie Zimmerman:** Exactly. What's important is that the government directed in 2009 that the focus would be on growing 100% Ontario. So what we don't have, and you've heard by the numbers today—there's a variety of numbers in terms of market share. What we don't have in Ontario is a market share that is owned solely, 100%, by Ontario. It is still a mix of international-Canadian blend, the blended side, and a mix of VQA. We are less than 50% right now. We would like to see that share of VQA wines grow. The purchasing habits of the international-Canadian blend players that WGOA represents include, obviously, that 25% in the bottle. We want to ensure that, going forward, there is growth of 100% Ontario. ICB is an important part of our market, but we certainly want to see the grapes taken up in the marketplace by 100% Ontario-grown. But that will not happen by 2014. We need a longer period of time, so we need the MOU extended beyond 2014 while the growth of Ontario continues to grow in the marketplace. It has been very slow, and unfortunately, over the 20 years, the expectations aren't there yet.

**Ms. Cindy Forster:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** No further questions? We'll go to the government side and Mr. Craitor.

**Mr. Kim Craitor:** Thank you, Mr. Chair. Hey, this is exciting to have everybody here together.

Patrick, I was reading your report again, and I noticed that—I can't believe it—Debbie, you and Patrick agree on something, and that's a good sign. In a unique way, you've said it. Patrick suggested that the LCBO and the senior management incorporate VQA and ICB growth targets as a significant part of their performance management and bonus system for the year 2013-14, and you've suggested that it's time for the government to set up clear, measurable targets for growth in the Ontario wine categories and vintages. So although you've said it in a different way, you're saying the same thing, which I totally agree with. That's a good start. That's what I call co-operation.

The other thing is, I just wanted to be able to put it on the record to say that in the eight years that I've been fortunate to be the MPP, the grape growers' association has done just a great job representing the growers.

**Ms. Debbie Zimmerman:** Thank you.

**Mr. Kim Craitor:** I know they come in regularly, and I see them. I think it's a unique way of having that one



voice that goes out to the industry and sets a price so that the growers know where they stand from the beginning. It's a bit like a union, to my brothers and sisters on the other side. So I just want to say congratulations. I'm hopeful now, because we're all here together—maybe I have high expectations—that some really good things will come out, because we're all in the same room saying it.

We all want the same thing; that's the best part of it. We want to ensure that all the grapes that are grown in Ontario either end up blended—and we want to promote VQA; that's our number one. We're all trying to get there; it's just different ways of doing it. I think there's a real opportunity, and having us together in the room, I just feel that some good things are going to come out of this.

I don't have a question; I just wanted to make those comments.

**Ms. Debbie Zimmerman:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Hi, Debbie. How are you?

**Ms. Debbie Zimmerman:** I'm fine.

**Mrs. Donna H. Cansfield:** Nice to see you.

**Ms. Debbie Zimmerman:** You as well.

**Mrs. Donna H. Cansfield:** I'm going to ask a couple of questions. You've put some targets together, or you've identified an economic impact that's based on 100%. I can't dispute your numbers, but what I can dispute is the productivity of those numbers. That is a real challenge for the grape growers, because you've got too many variables. So my question would be—and you probably can't do it now—on the risk management side and the actuarial side of what, again, I call the art of the possible. If it's not possible now, Debbie, that's fine.

It's interesting; you indicated in your comments here that Drummond recommended that the LCBO “continually compare the merits of providing supports to Ontario producers against desired policy outcomes.” For example, he said that the board provides discounted shipping and premium shelf space to support and promote Ontario producers. Drummond says, “These may not represent profit-maximizing strategies, and their policy merits should be balanced against reduced profitability.” So the challenge becomes part of the responsibility of the LCBO in terms of their mandate; the fact that we are a capitalized market, so we deal with NAFTA; that we have that wonderful thing called choice: You can't force anybody or mandate somebody to purchase a bottle of anybody's wine. So my question to you is on the issue around performance and targets, and what actually is possible and is reasonable, because you can't anticipate an expectation that the LCBO cannot possibly deliver—or any government.

**Ms. Debbie Zimmerman:** No, and I think that's very true. One of the reasons why I think—you know, it's a bit of risk to put Drummond's recommendation in there, because we're actually saying, “Measure us against it.” But we're saying that the economic output from growing in your home market—again, we're in a highly regulated

marketplace. We have a number of pieces of legislation that affect us as growers, and there are many, many pieces of legislation that affect the wine industry, none of which is any more challenging than the greenbelt. Actually, we've embraced it and been successful within it, but as long as the government controls the monopoly called the LCBO—and that's not a bad word; it's a distribution channel—they should be able to set the targets which we all have to be measured against. We're quite prepared to be measured against those targets as an industry, because we not only create jobs and maintain the land and produce wine, which has a huge tax value, which you're building hospitals and schools against—we're good with that.

**1400**

If we need to be measured against the targets and if we need to change the way in which we need to do business, we're prepared to do that as well. We, as growers, have done that. We have gone back; we've done a varietal plan; we've worked with the wineries in assessing which variety we should be growing.

Don't forget: We're working in a very interesting marketplace. One of the largest companies in the world, called Constellation, is in our home market. They bring in wine from all over the world and they blend it in with our domestic product, and we have to be successful in the marketplace with that. We don't begrudge that, because a lot of our grapes go into a bottle of wine that is blended with Canadian and imported product, but we'd love to have a marketplace that also supports us, going forward, to grow our 100% Ontario wine.

Government sets policy quite often that we have to be judged against. We're all right with that as long as it's fair and reasonable and equitable. As long as you control the distribution channel called the LCBO, I think the government should be able to work with the LCBO on some targets and make it measurable for all of us, but also make it fair in our own home market. In no place else in the world does any domestic marketplace not own their own market at home. We do not in Ontario. You can go to anywhere in the world that has a wine industry, and most of them are, at best, 75% market share. We only have 39%, and I'm being generous because I've included a number of other things in that number.

**Mrs. Donna H. Cansfield:** But you have to admit as well that it's a fairly young industry.

**Ms. Debbie Zimmerman:** It's 65 years old, from our perspective.

**Mrs. Donna H. Cansfield:** Yes, right, but in comparison to France or Portugal or Spain or even Australia or California, it's just by virtue of what they're able to do.

My question again to you is: You'll never get to 100% because NAFTA rules would never allow 100% Ontario wines and nothing else being sold—

**Ms. Debbie Zimmerman:** No, and I think it would be unreasonable to suggest that.

**Mrs. Donna H. Cansfield:** So what is reasonable? What is a reasonable target for you?

**Ms. Debbie Zimmerman:** Fifty per cent.



**Mrs. Donna H. Cansfield:** You want 50%.

**Ms. Debbie Zimmerman:** In 1999, everybody came together on a document called Poised for Greatness. The government signed on, the LCBO signed on, we signed on, and the wine council at the time signed on. We are nowhere near that. We were supposed to be, in 2011, at 50%. We are nowhere near that. There must have been a vision back then that has somehow been lost. We need to re-grasp that vision and come forward and say, "What was missing?" Sure, there are a lot of things that happened, but I think I wanted to qualify that it's not just the LCBO that was responsible for those targets not being met. We are all responsible, but to a certain degree, a lot of that responsibility rests with government and policy and the targets you want the LCBO to be measured against.

**Mrs. Donna H. Cansfield:** So maybe there's an opportunity to look at something like a centre of excellence for the wine industry in terms of that broader picture that Kim speaks about and getting all the players to the table and getting them to play nicely in the sandbox.

**Ms. Debbie Zimmerman:** Yes. We have to hold hands with two partners now. Before we were holding hands with one. We now have two associations that represent distinct business entities. We're okay holding hands with another partner if that's what is needed to get the job done.

**The Vice-Chair (Mr. Phil McNeely):** Time is up. We'll go to the official opposition and Ms. Munro.

**Mrs. Julia Munro:** Thank you very much for coming and providing us with your insight. I want to push the insight a little further because much of the conversation with my friend Donna Cansfield dealt with the issue of reaching that goal. If you were able to take the magic wand, what would be the kinds of things that you would want to see happen that would bring that number up to the 50%, or closer to it than we are now?

**Ms. Debbie Zimmerman:** We think that the programs that the LCBO has embarked upon more currently—increasing shelf space and adding more stores—is certainly going to help with that target and that goal for us long-term.

One of the things we want to see the government do is maintain the current policy that we have called 40/25. It was announced in 2009 that there would be a minimum of 25% in a bottle of blended wine, but that companies who blend must ensure that 40% of their purchases are Ontario. We don't think that's unreasonable and we're hoping that that will be maintained as Ontario wine sales grow and of course as we as growers are able to meet those targets for wineries—which we are today. In fact, since the government policy was announced in 2009, we are now at 62,000 tonnes of grapes that have been purchased in the last year, and it is expected that this will continue to grow, because there is a focus on Ontario. That blended bottle of wine, obviously, is one area in which we can actually affect content and growth for Ontario long-term.

**Mrs. Julia Munro:** I was going to ask you if you've done any or used other studies with regard to the commitment of Ontarians to purchase Ontario wine.

**Ms. Debbie Zimmerman:** Do you know, it's a funny thing. The analogy has always eluded me—why BC is so passionate about its wines and Ontario seems to be lagging in terms of getting there. I don't know if it's confusion over labelling; it could be. It could be the fact that a lot of people don't quite understand what "VQA" means. There have been a lot of consumer studies done on getting people more interested in Ontario wine. We're certainly seeing that; we're seeing the growth in small and medium-sized wineries. We're certainly seeing more people choosing Ontario wine. I think, obviously, the availability of what's on the shelf is going to make a difference. Again, I'll say that the LCBO has embraced that by improving the number of stores. I think we're getting there. One specific thing: We need to be more passionate about what we have in this province.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Hardeman.

**Mr. Ernie Hardeman:** Thank you, Debbie, for the presentation. I want to go along in the same vein of the last two questioners and deal with the 1999 projections. I'm looking at that and seeing, first of all, that the people are going to vote with their wallets. Am I to understand from that that they are willing to pay more for good wine?

**Ms. Debbie Zimmerman:** I don't think voting with their wallets was intended to be that. Voting with their wallets would have meant they go out and buy Ontario wine to get to meet the targets. I think we have a variety of price points, as was expressed by the previous presenters: from \$10 up to very expensive wines. VQA wines are certainly a large part of what makes us successful as growers, but they're not all at the highest price point.

**Mr. Ernie Hardeman:** The other thing that took me by surprise: That same projection looked at that 90% of Ontario's grapes grown would go into VQA wines, and some other more very optimistic projections. In the next page, at the bottom of the page, you talk about that you want the LCBO to make more projections and more targets. I'd like to know what makes you think that they're going to meet the next targets any better than the last one. Do you really believe that we can achieve the targets of 1999 with one marketer of wines?

**Ms. Debbie Zimmerman:** We don't have just one marketer of wines in this province. We have many distribution channels already: the off-site winery stores; the on-site wine stores—or what they call on-farm stores; we have direct delivery to licensees; and we have the LCBO. Our concern is adding another channel that waters down the market even further. The targets that were established in 1999—I wasn't involved at the time but I know the people that were, and some of them are sitting in this room today, so you might want to ask them the question of why they didn't meet those targets. There were probably a lot of things within the marketplace that didn't help it along, but what we're seeing is that, even today in



a recessionary period, people are still buying wine; we just need to encourage them to buy more. We want our partner, which is government-controlled, to set the targets that help to achieve some of the goals that were set in 1999.

**Mr. Ernie Hardeman:** But these other marketing avenues that are available today didn't exist in 1999—

**Ms. Debbie Zimmerman:** No, they did.

**Mr. Ernie Hardeman:** They've been added on at that time. Do you think that the answer today is to put the focus back on the LCBO to increase our consumption, or do you think that there are opportunities beyond what we presently have outside the LCBO? Where should the focus be? As this committee looks at the function of the LCBO, should we be looking at encouraging them to promote more Ontario or get them to agree that there are other ways of marketing products that would be more beneficial to our wine industry?

**Ms. Debbie Zimmerman:** I presume you're alluding to an alternative distribution channel.

**Mr. Ernie Hardeman:** Not necessarily.

**Ms. Debbie Zimmerman:** I think what we're asking—because, again, the LCBO is one of the best marketers in the world. Everybody knows that because there are a lot of importers who'd love to get into our marketplace because of the LCBO's being a very good marketer. So I could never fault them about the way they market product. We just want them to market more Ontario product.

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**Mr. Ernie Hardeman:** I was going to say, I'm not sure that they are the best marketers in the world. They're the only marketers in the world that have a monopoly to market their product to a defined audience, so—

**Ms. Debbie Zimmerman:** I would still say they're one of the best marketers in the world.

**Mr. Ernie Hardeman:** I'm not saying there's anything wrong with that. I'm just suggesting, is there a need to be looking at other opportunities? Our present system, as we've heard from previous presenters and as we heard from you, is not moving us up the ladder very fast to get to that 50% of Ontario product.

**Ms. Debbie Zimmerman:** I don't disagree with that, and I think, as long as the government controls this present system—Drummond referred to the LCBO as a business enterprise. As long as the government controls the business enterprise, they can work with them to set the goals and objectives for that business enterprise.

**Mr. Ernie Hardeman:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** You have one minute, Mr. Pettapiece.

**Mr. Randy Pettapiece:** I just have a short question. We've been talking about growing your market share, which is certainly something you want. You've been somewhat stagnant, I guess, over the years. I'm a little concerned, with the economy as it is right now, that it may be difficult to get people to purchase more expensive wines. They may go to the other end and purchase the least expensive wines.

Have you got some sort of business plan that you're working on—you don't have to explain the whole thing—that you could present to the LCBO and the government that would move you towards your targets?

**Ms. Debbie Zimmerman:** We do have what we call, for us—we plan out for our future by the number of vineyards that we have currently planted. As I mentioned earlier, we are in a greenbelt. The most vineyards in the greenbelt are in the Niagara Peninsula. We're probably the only wine region in the world that is unique in that regard.

So what we know is—and we are regulated to be in agriculture, as growers, for a number of years. We also know and can anticipate, through a system we created, how many acres or how many grapes are going to be grown into the future. The challenge is we know what our targets need to be, but we don't know what the government's expectations are in terms of the revenue they expect from the LCBO.

Those are the two things we'd have to marry up, because if the government has an expectation on revenues, it makes it more challenging for us in terms of where they expect those revenues to come from. That's why we need to align some of what we think are going to be our targets with the targets of the LCBO, but that emphasis, we believe, should be at least 50% market share in this province. That may mean giving up some of the shelf space of the importers or the blenders to 100% Ontario grown. We don't think that's unreasonable, given the fact that legislation governing us is, in fact, keeping us in agriculture.

We want to be sustainable, and we want to be profitable. There's nothing wrong with that in a province that's supposed to be about growing the marketplace.

**The Vice-Chair (Mr. Phil McNeely):** The time is up, but thank you, Ms. Zimmerman, for the very good presentation on behalf of the Grape Growers of Ontario.

#### CENTRE FOR ADDICTION AND MENTAL HEALTH

**The Vice-Chair (Mr. Phil McNeely):** The next presentation is Centre for Addiction and Mental Health, Dr. Norman Giesbrecht. You can come forward. You have 10 minutes to make your presentation, and state your name at the outset. Thank you.

**Dr. Norman Giesbrecht:** I am Norman Giesbrecht. Thank you for the opportunity to speak to you this afternoon. The main focus of my remarks is the harms from alcohol and the role that government-run retail systems can play in reducing the harm.

Alcohol is a popular substance. About 80% of adult Ontarians reported consuming alcohol in the past 12 months. Taken in small quantities and in certain contexts, it can provide social benefits to consumers and health benefits for some older adults. The sale of alcohol also provides profits to businesses, including producers, distributors and retailers, and revenues to governments.



However, alcohol is a drug with many effects, including a wide range of risks and harms. Alcohol consumption can lead to numerous social problems, trauma and chronic diseases for the drinker. It also has negative consequences that affect the drinker's family, social contacts, co-workers, community members and strangers.

A 2010 report by an international group of 15 leading alcohol specialists identified the following major alcohol-related health conditions:

- cancers of the head and neck, liver, colorectum and breast;
- neuropsychiatric conditions, such as alcohol dependence syndrome, alcohol abuse, and depression;
- diabetes—alcohol can be protective in small amounts or increase risk in larger amounts;
- cardiovascular conditions, including ischemic heart disease, hypertensive disease, cerebrovascular disease—it can be protective of these diseases in small amounts or have adverse effects with heavier drinking;
- gastrointestinal conditions, including liver cirrhosis and pancreatitis;
- infectious diseases, including tuberculosis and pneumonia;
- maternal and perinatal conditions, such as fetal alcohol syndrome and disorders;
- acute toxic effects—alcohol poisoning;
- accidents involving road and other transportation incidents, drowning and burning injuries, and occupational and machine injuries;
- self-inflicted injuries or death; and
- violence inflicted on others.

Each of these chronic conditions or types of trauma contribute a substantial financial burden, be it health, social services, law enforcement or other responses. For Ontario alone, the cost of direct health care, law enforcement, corrections, prevention, lost productivity and other alcohol-related problems was estimated to be \$5.3 billion per year in 2002 by Jürgen Rehm and his colleagues from CAMH.

Furthermore, the World Health Organization reports that alcohol is the second of 10 leading risk factors for disease and disability in high-income countries such as Canada, the first being tobacco.

Government-controlled-and-run liquor stores play an important role in preventing these harms. To understand how, it is important to consider certain facts and principles related to alcohol and its effects. The health and social harm from alcohol is greater than the health benefits. As the overall consumption in a population increases, heavy drinking and harms from drinking are also likely to increase. These harms are not limited to persons who are alcoholics or heavy drinkers; many harms occur primarily to people who are occasional heavy drinkers. Controlling the availability of alcohol is critical to controlling overall consumption and furthermore to reducing occasional heavy drinking, as well as preventing alcohol-related harms such as drinking and driving, violence, and alcohol-related diseases.

Over several decades, top international and national researchers have evaluated the effectiveness of different policies and interventions in controlling overall consumption, high-risk drinking and harm from alcohol. These evaluations have included population-level policies that impact all consumers, and secondly, more focused interventions. The first group includes pricing and taxation policies, as well as controls on physical availability, such as number of outlets, hours and days of sale, and government-run retail systems. The second group includes a number of drinking-and-driving countermeasures, including minimum legal drinking age and brief interventions for those drinking at hazardous levels.

As noted, government-controlled liquor sales is one of several state interventions that has been consistently shown to prevent alcohol-related problems. Furthermore, our surveys have shown that about two thirds of adult Ontarians are supportive of the LCBO and are opposed to privatization.

Ontarians have been fortunate to have governments that have taken a cautious approach with regard to alcohol distribution and retailing and an active role in controlling alcohol-related risks, including drinking and driving. In line with the international research, the Ministry of Finance has introduced indexed minimum pricing of alcoholic beverages. The Safer Bars program to reduce alcohol-related violence in licensed premises was also developed in Ontario by Kathryn Graham of CAMH.

CAMH researchers have recently estimated that drinking-and-driving policies and programs introduced since 1969 have prevented over 5,000 deaths and 180,000 serious injuries, for a cost savings ranging up to \$78 billion over 40 years. These benefits could be eroded by privatizing alcohol distribution and retailing in Ontario.

The government-run Liquor Control Board of Ontario provides good service to customers, with staff who are not only knowledgeable about the products that they sell but, as importantly, trained in responsible sales. Their Challenge and Refusal program is considered exemplary. Research from other provinces and internationally indicates that intoxicated and underage persons are much more likely to be served under a private system. Furthermore, the social responsibility of the LCBO, in partnership with Mothers Against Drunk Driving and other stakeholders, draws attention to risks of over-drinking and guidance on how hosts and other concerned citizens can intervene to prevent alcohol-related harms. The control functions of the LCBO are a keystone of good alcohol policy for the province.

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Nevertheless, the dramatic increase in alcohol marketing and promotion in Ontario is worrisome, including ads on transit vehicles, numerous newspaper inserts and other venues such as YouTube, Twitter and Facebook. It gives the impression that alcohol is essential for all social occasions. It may contribute to impulse buying and



stimulate an increase in overall consumption. Also, the occasional public health messages about health and safety risks are likely to be lost with the high volume of advertising of alcoholic products.

Unfortunately, the increase of alcohol-related problems and the financial costs to the province are typically not part of public or media discussions of privatization. What are the main effects of privatization? International research points to several: a dramatic increase in the density of outlets—the number of stores per capita; longer hours of sale; lower hourly pay for store staff; lower attention to challenge-and-refusal protocols; and increased risk of social problems, trauma or chronic disease related to alcohol.

Michael Livingston from Melbourne has studied the impacts of increased density and concentration of alcohol outlets in that city. He found that an increase in density was associated with an increase in general assaults, domestic violence, chronic alcohol-related disease and heavy drinking by youth, with a stronger association with private bottle shops than with licensed premises.

A number of studies suggest that the results of privatization will be higher alcohol consumption, higher-risk drinking and greater harms for Ontarians. Timothy Stockwell from BC and colleagues examined the effects of partial privatization of alcohol outlets in British Columbia. They found that alcohol sales increased more sharply in those areas of BC with the higher proportion of private alcohol outlets, and those areas also experienced elevated rates of liver cirrhosis mortality. Alcohol-related deaths increased significantly, by 3.25%, for each 20% increase in private store density.

Jürgen Rehm of CAMH and colleagues estimated the potential impacts of privatization of alcohol outlets in Canada. They projected that privatization would lead to a 10% increase in alcohol consumption, a 16.5% increase in alcohol-related mortality, an 8.4% increase in years of life lost, and an 8.2% increase in alcohol-related acute care hospital days, with a substantial increase in health care and other costs. Not only is privatization likely to lead to greater harms; once privatization occurs, a return to a precautionary approach, including public ownership of the sale and distribution of alcohol, is unlikely to be politically feasible, even when it is clear that greater harms have resulted from privatization.

Alcohol is no ordinary commodity. It is a substantial contributor to social problems, trauma and chronic disease. In order to reduce the harm from alcohol, we need to continue to give priority to population-level policies, including avoiding privatizing alcohol retailing and not increasing the density of alcohol outlets. Government decisions around alcohol should be made in the public interest and informed by a public health perspective. Thank you very much.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Dr. Giesbrecht. We'll go to the government side and Ms. Jaczek.

**Ms. Helena Jaczek:** Thank you very much for coming here today and giving us, obviously, the per-

spective of the Centre for Addiction and Mental Health. I am a physician and former medical officer of health, so of course, the public health impacts of alcohol are something that I'm keenly interested in.

Where would you rate Ontario, in terms of its balance between consumer demand and social responsibility, in terms of alcohol use and abuse? You've quoted some studies from other provinces. Can you look at these rates of alcohol-related suicide, chronic disease and trauma and give us a sense of where we stand, perhaps, in Canada and even beyond that?

**Dr. Norman Giesbrecht:** I think that Ontario is probably somewhere in the middle. I think that provinces such as Alberta and BC are likely going to have higher rates of problems. Their overall rate of consumption has increased more steeply, on a per capita basis, than has Ontario's in recent years. I realize that from the point of view of the industry, increased sales are good. From the point of view of public health, they're not so good.

**Ms. Helena Jaczek:** Let's just keep talking about public health for a bit because we've heard a lot about the industry. To what would you attribute higher rates of harm in BC and Alberta?

**Dr. Norman Giesbrecht:** Increased sales.

**Ms. Helena Jaczek:** How have they achieved those increased sales?

**Dr. Norman Giesbrecht:** They've increased those sales in Alberta by completely privatizing in 1993 and in BC by partially privatizing from about 2000 onward.

**Ms. Helena Jaczek:** So you think that's a truly significant—

**Dr. Norman Giesbrecht:** That's one of the studies I cited, yes.

**Ms. Helena Jaczek:** Yes.

**Dr. Norman Giesbrecht:** And that has contributed overall. That also contributed to liver cirrhosis mortality in BC.

**Ms. Helena Jaczek:** Exactly. How does CAMH actually work with the LCBO? Do you have a sort of ongoing relationship in terms of looking at social responsibility?

**Dr. Norman Giesbrecht:** Yes.

**Ms. Helena Jaczek:** Could you outline some of those?

**Dr. Norman Giesbrecht:** Yes. We work with them on several levels. We work with them in terms of requesting data that we use for our studies, and they've been very helpful in that respect. We've also worked with them with regard to distributing the low-risk drinking guidelines, and I understand that's going to be done this summer. We work with them on exchanging ideas and plans with regard to some of the issues we're dealing with. We provide data to them with regard to drinking and youth, and other things.

**Ms. Helena Jaczek:** Certainly in the LCBO's annual report, they mention some specific programs that they've engaged in. Some of these programs are things like Deflate the Elephant; that's just one example they've given. How would you rate the effectiveness? Would you like to



see more of these kinds of programs? Would you have any suggestions on how to impact people's behaviour?

**Dr. Norman Giesbrecht:** I think that those programs that draw attention to the risks of over-serving, the risks of drinking and driving, the risks of binge drinking and so on are very useful. I think it's really important that these programs be evaluated, not only in terms of the quality of their presentation but their real impact on the people who engage in these behaviours.

**Ms. Helena Jaczek:** As you may have heard, if you were here earlier, obviously, there are many stakeholders in this particular business. Do you have any recommendations to government how to balance all these competing interests?

**Dr. Norman Giesbrecht:** Well, I think that the consumers like the LCBO, as I indicated in my remarks. I think that it's difficult to balance these different agendas. However, if the intent of increasing the number of outlets is to bring in more revenue, the other alternative would be to raise the price and not increase the number of outlets, because by raising the price, you would make sure that consumption is flatlined, but your revenue would increase. But if you increase the number of outlets by 5%, 10%, whatever, you're likely going to increase the number of problems. If you do full-cost accounting, the revenues will not offset the cost to health and social problems.

**Ms. Helena Jaczek:** Okay. Could you just expand a little bit on price sensitivity? I imagine CAMH has looked at this a little bit.

**Dr. Norman Giesbrecht:** Yes. There's still lots of flexibility that—people will be willing to pay more. I'm not talking about a huge increase, but a modest increase in prices would likely benefit the broader public health agenda and revenue generation as well.

**Ms. Helena Jaczek:** In terms of the demographics related to some of these suicides related to alcohol use or trauma or chronic disease, do you see a significant difference in terms of economic capacity of the patient? In other words, is there a relationship between income and these situations?

**Dr. Norman Giesbrecht:** Alcohol problems affect people from all walks of life. Binge drinking is more common among youth and young adults. The chronic problems, of course, because they're chronic, take years to develop. They're likely to be greater among the middle-aged and older. So there's a whole diversity of problems.

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**Ms. Helena Jaczek:** So there's a price sensitivity to a certain extent, but it seems to impact just about everybody.

**Dr. Norman Giesbrecht:** A price sensitivity to a certain extent—and of course, the impact on the light drinker is going to be modest; the impact on the heavier drinker is going to be greater. Heavy drinkers are very sensitive to increases in price, so they would modify their drinking.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Cansfield, you have two minutes.

**Mrs. Donna H. Cansfield:** You identified that there is a correlation between price point and consumption and the ability to pay.

**Dr. Norman Giesbrecht:** Yes.

**Mrs. Donna H. Cansfield:** The vast majority of people will have a drink sometime in their life. I would suspect that there's a small percentage, and maybe you know that percentage, of people who abuse this particular substance—and then that sort of fiscal impact on the health care system. I know there are some figures floating around; I've seen some of them. So I think that needs to be taken into consideration, as well, when we're having the discussion.

As you heard, we're talking about the economic viability of a particular commodity and its impact on the livelihood of people who grow that commodity, the people who produce the commodity, and then obviously the people who consume the commodity.

There's a small portion of those who over-consume or become addicted to that commodity, that impacts the social fabric, if you like, of Ontario. Do you know a number? Do you have an idea?

**Dr. Norman Giesbrecht:** Number? I missed—

**Mrs. Donna H. Cansfield:** The number of people who are impacted. Are we talking 10% of the population who are addicted to alcohol?

**Dr. Norman Giesbrecht:** The number I have from the most recent statistics is that about 13% were considered to drink at hazardous or harmful levels.

**Mrs. Donna H. Cansfield:** Can you define what's hazardous or harmful?

**Dr. Norman Giesbrecht:** These are people who would be drinking well over the lowest drinking guidelines. The lowest drinking guidelines are around 14 or 15 drinks per week for a male or 10 drinks per week for a woman. They would also be scoring on what's called an audit scale, which asks questions about whether they've tried to stop drinking and had difficulty, whether they feel compelled to drink, whether their physician or similar health care person has spoken to them about their alcohol use, and so on and so forth.

**Mrs. Donna H. Cansfield:** Do you have a breakdown in terms of the age of that demographic?

**Dr. Norman Giesbrecht:** No, I wouldn't have it here.

**Mrs. Donna H. Cansfield:** I would just be curious, because then obviously the marketing, the targeting, would make a difference, wouldn't it?

**Dr. Norman Giesbrecht:** Yes.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. Time is up.

We'll go to the official opposition and Ms. Munro.

**Mrs. Julia Munro:** Thank you very much. As you mentioned, we've had other spokespeople who are stakeholders in the industry and not one looking from this perspective. I was interested in the fact that when you were speaking about the issue around privatization, the way I understood your logic was that there's a greater



availability, and it's that availability that is the tipping point in terms of what you see as a result. Is alcoholism a cause or a result?

**Dr. Norman Giesbrecht:** A cause or result of what?

**Mrs. Julia Munro:** Are people alcoholics by virtue of being alcoholics, or is it a manifestation of something else?

**Dr. Norman Giesbrecht:** It's a combination. There are some genetic factors with regard to a person becoming an alcoholic. There are also social factors and group factors.

When I'm talking about availability, the main concern is not necessarily the alcoholic; the main concern is the people who are drinking heavily on occasion, because there's many more of them. If we focus only on the alcoholics, we're missing the point. The availability of alcohol has a ripple effect and increases overall consumption and also increases the percentage of people drinking in a high-risk manner, and therefore has a great impact on the range of problems.

**Mrs. Julia Munro:** The other question I wanted to ask was, because you mentioned the availability, does that mean if the LCBO goes ahead—I believe, this morning, it was eight new locations—does that create the same availability as it would in another province?

**Dr. Norman Giesbrecht:** The LCBO, I think, has almost 600 stores right now, and they're adding eight stores. Is that what you're asking?

**Mrs. Julia Munro:** Yes.

**Dr. Norman Giesbrecht:** That would not be a dramatic change in availability. If, let's say, these eight stores were the stores that sold the most alcohol—if they were the largest stores—that would have an impact. The bottom line is whether the overall volume of alcohol distributed on a per capita basis in Ontario increases. That's what will drive the increase in the risk.

**Mrs. Julia Munro:** My final point was when you were talking about the possibility that raising taxes might discourage some people from an increased cost, would you—looking at the issue around taxes on tobacco, what that did was create a huge market for contraband.

**Dr. Norman Giesbrecht:** The studies that are done on alcohol as far as tax have been the most definitive and the best-quality studies that I know of. They've demonstrated over and over again that the overall sales of alcohol and damage from alcohol, including chronic disease, liver cirrhosis, suicide, homicide, family violence, drinking and driving—all of these things have been impacted by the price of alcohol, which is related to taxes.

There is, of course, some contraband alcohol, but the proof is in the pudding. If you find an increase in tax and you find that these problems go down, then you've had an impact, because the liver doesn't differentiate between contraband alcohol and legal alcohol. So there has been a real impact on overall consumption from the tax policy.

**Mrs. Julia Munro:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Pettapiece.

**Mr. Randy Pettapiece:** I just have one question. We talked about Alberta, that they've increased their sales,

stores and whatever else, and so their consumption is starting to do this. I would wonder what income has to do with that. We know that Alberta is going through a boom time right now. I would suggest that disposable incomes probably are higher out there than they are in some other parts of the country. Do you have an opinion on that?

**Dr. Norman Giesbrecht:** Yes. I think that's a very good point. I think that you need to look at both the availability through the density of outlets or the hours of sale or that sort of thing, as well as the availability through income.

What happened in Alberta in 1993 was very curious. They had, I think, a 300% increase in the density of outlets, almost overnight. At the same time, when privatization was introduced in 1993, initially the average price of the highest-volume brands went up. So you had two things working in opposite directions: You had availability increasing through the density of outlets and you had a flattening because the price went up.

I think that you're right: In more recent years, the trend of sales in Alberta on a per capita basis has been steeper than in previous years, and I think that has been driven by a combination of things: the density of outlets and disposable income.

**Mr. Randy Pettapiece:** I was out in Alberta back in 1974, I think. That was the first time that I'd gone into a bar and was allowed to carry a 12-pack out with me. I'd never seen that done before. Alberta has had outlets available for years other than an LCBO store, if I might use that term. I would suggest that the number of outlets might not have the same impact as increased income would because people, if they've got the money and they want alcohol, will buy it. They're going to get it someplace. That's kind of what my point was on that. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Hardeman.

**Mr. Ernie Hardeman:** Thank you very much for your presentation. I just have one question. It's on the bottom of page 2, going on to page 3: "Furthermore, the social responsibility activities of the LCBO, in partnership with MADD and other stakeholders, draw attention to risks of over-drinking and guidance on how hosts and other concerned citizens can intervene to prevent alcohol-related harms. The control functions of the LCBO are a keystone of good alcohol policy for the province."

I get a lot of calls in my office about this, as it relates to the next paragraph: "Nevertheless, the dramatic increase in alcohol marketing and promotion in Ontario is worrisome, including ads on transit vehicles, numerous newspaper inserts, and other venues such as YouTube, Twitter and Facebook."

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They're bought and paid for by the same people. Is there a challenge there, that the person who is marketing the product or the company marketing the product and the LCBO is also the people that are put in charge of trying to get me to quit drinking? It's just contradictory, and I'm not going to pay attention to either side of that argument. So I wondered if you could speak to that.



**Dr. Norman Giesbrecht:** I think that there is a challenge. I know that some years ago, in the early 1990s, there was a lot of pressure to sell more alcohol—at least, that was rumoured. I think that that's possibly when, under a previous government, there was an increase in marketing. I think that from a public health perspective, the people I work with and the people I know from the public health community are concerned about the marketing, and I think that is something that needs to be looked at.

**Mr. Ernie Hardeman:** We're reviewing the LCBO and whether they're functioning properly or what should be changed to make them function even better. Would it be appropriate to look at taking away one of those two responsibilities? One is to be promoting alcohol and the other is to be telling me to stop doing it. Should that be done through another organization? Does that make sense? I would have the concern that if it was a private business, they would in fact hope that their advertising to get me to quit drinking didn't work very well, so they would buy bad ads. I just think it's unachievable to put their heart in both sides of that story. Could you make a comment on that?

**Dr. Norman Giesbrecht:** To put it in perspective, while I'm standing by the statement that I think the increased advertising and the marketing and the ads on transit vehicles and so on is worrisome, I would think that if you go south of the border—and in many of the states you do not have liquor boards—and you look at the marketing there, it's much more aggressive. So I think you need to put that in perspective.

**The Vice-Chair (Mr. Phil McNeely):** The time is up. We'll move to the third party and Ms. Forster.

**Ms. Cindy Forster:** Thank you for being here today. I, as well, come from a health background. I'm a registered nurse by trade and so the health issues and the social impact issues are very important to me.

In Alberta, in 1993, they privatized. Have there been any studies with respect to—or do they even have any programs such as the LCBO has, in collaboration with CAMH and various other agencies, around responsible drinking, around education of their employees for selling to minors, for selling to people who may be under the influence? I guess the bare question: How effective can that program be when you have 300, 400 or 500 different operators in a kind of independent system?

**Dr. Norman Giesbrecht:** My understanding is that Alberta does have some programs like that. I referred to some research that has shown that some comparison has been drawn with other provinces, and if the system is sold fully private, there is not the same incentive by the manager or operator of a store to challenge and refuse service. I think part of it is that the staff are not paid very much. I think that the staff are not as committed to that aspect of their work. I think that in many cases, if it's a small store, if it's a mom-and-pop sort of store, you may have family members working there and so on and so forth, so there may be a lot of opportunities, if you will, for the person who is serving the alcohol to look the other

way and say, "Oh, well. I know this person. He's probably underage, but he's my buddy," or "He looks a bit intoxicated, but I'll let him go." I think that if you have a government-run system, you're going to have better checks and balances on that aspect.

**Ms. Cindy Forster:** And is there any kind of government monitoring agency with respect to the privatization of the alcohol system?

**Dr. Norman Giesbrecht:** They have done periodic reviews of that, and one of the findings from the Economist is that the privatization system did not really generate as much revenue as would have been the case if they had stuck to a government-run system in Alberta.

**Ms. Cindy Forster:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Miss Taylor, yes.

**Miss Monique Taylor:** Thank you for being here with us today. I'm not sure if my questioning is going to—if you'll be able to answer that in the position that you are in. Please feel free to say so if that's the case.

I am the critic for children and youth services for the NDP and I see a lot of cutbacks for children with mental health issues. In being a new MPP in my area, I also hear of the lack of facilities for people who are facing drug addictions, alcohol addictions, and them not having—I mean, there's the instant detox, but then there are the huge wait times.

What can the government do? Do you find less of a funding impact—are you involved in that aspect of it that you could answer these kinds of funding questions, and what do you see the government doing better to help this system along?

**Dr. Norman Giesbrecht:** Well, I think you predicted correctly: I'm not in a very good position to answer that question. My training is in sociology. I do alcohol policy research. I'm not a clinician. I think you've touched on a very important point and I think that probably more attention needs to be on these issues and others, but I can't give you concrete on that—sorry.

**Miss Monique Taylor:** Okay. Thank you. I have no further questions, then.

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much, Dr. Giesbrecht, for coming in on behalf of the Centre for Addiction and Mental Health.

We'll now take a three- or four-minute recess to stretch. We'll resume in three minutes. Thank you.

*The committee recessed from 1448 to 1455.*

## WINE COUNCIL OF ONTARIO

**The Vice-Chair (Mr. Phil McNeely):** The next presentation is by the Wine Council of Ontario. You have 10 minutes. State your name as you start your presentation.

**Mr. Ed Madronich:** Thank you for the opportunity to be here. My name is Ed Madronich. I am the chair of the Wine Council of Ontario. I am here with Hillary Dawson, who is our president. I am also the owner of Flat Rock Cellars, a winery in Jordan, Ontario.



Just quickly on who we are—and I think you all have the presentation. I'll go through the key points within the presentation, not each of the points. The wine council represents over 80 members. The vast majority are commercially active wineries, and we have members throughout the province, right from Windsor to Owen Sound to Prince Edward county. Within the marketplace where all wineries are able to participate, wine council members represent 75% of Ontario VQA wine sales. We are a powerful catalyst for building the brand and the culture of the province of Ontario, and I think that's a really important point as we grow our industry. It's a great cultural element that we're adding to the province of Ontario.

Our industry is one that delivers significant value to the province, and if I may, we are vertically integrated businesses. Unlike most industries where you're a manufacturer, you take products from everywhere, you bring them in and then you ship those products out and you're focused in on just manufacturing jobs—say, the auto sector—we are vertically integrated businesses.

At a winery like Flat Rock Cellars, I employ vineyard workers, who protect the greenbelt and grow grapes. I bring those grapes in. I manufacture those grapes with the harvest team, with winemaking staff. I have a professional marketing and sales department, but I'm also tourism, where I retail it. I obviously also sell those products globally and create a lot of construction jobs. So unlike most industries, we are very strong, vertically integrated businesses. When you sell one bottle of wine, it means jobs throughout that entire value chain.

Just to reinforce that, KPMG recently validated these kinds of results. We've created 1,300 incremental jobs in the past four years. We've created almost \$200 million, in this past fiscal year alone, in value to the province of Ontario, and we're growing economic impact where other industries are remaining status quo. That was one of the highlights of the KPMG report.

We have been encouraged with the growth in this economic impact, and for every litre of VQA wine sold, we are generating \$12.29 of value-added impact over and above taxes, and that growth since 2007, which is great and exciting for our industry. At the end of the day, we know we are contributing a great amount to the province of Ontario, and obviously more than imported product that's being sold here.

We can summarize our two core concerns under these themes and illustrate our challenges and opportunities, and these are growth, profitability and levelling the playing field.

First, growth: We know we have, over the next three years, about half a million cases, above and beyond what we project to sell, that we need to sell. We'll talk a little bit more about that. We also have a growth in production. We feel there is consumer demand for this wine; we just need an opportunity to sell this wine to keep pace, and we obviously really want to sell it.

Profitability is another challenge, and that relates directly back to our growth. Our biggest challenge: Our

ability to continue to maintain or reinvigorate our momentum continues to be restrained by the cost within that system. Today, we'll be talking about those three things.

First of all, just take a look at this chart. I think, visually, this sort of exemplifies the challenges. Vintages is the one channel in which we can grow our premium side of the business—sort of the above \$15. When we look at the releases that we've been able to have every two weeks, the number of releases for Ontario wines has remained flat over the past three years, while we see imports continuing to grow. That obviously is a challenge, as we have more and more new wineries who see that as their one channel to be able to retail their products to the citizens of Ontario.

Just to put that in perspective, we talked about those 500,000 cases that we have that are commercially viable and ready to sell over the next three years. If we look at trying to sell those through Vintages, at an average purchase or release of 125 cases, that's an additional 4,000 releases through Vintages alone, and currently we're at about 200 per year. So you can see the magnitude of the challenge that we as an industry face in trying to sell all the product that we have available out there.

The most important thing to understand is that even if a winery does get their wine in—so even if I get my opportunity to sell that, and it sells through, it hits all the targets—there is no guarantee that that wine will be bought again. So for our VQA wineries—I know, as a winery, that my vineyard is coming online again next year. Without a guarantee of a place to sell that wine, it's a real challenge for me as a business.

One of the disappointing things is that some of our most successful wineries that we've seen over the past 20 years are having their most disappointing results in the Vintages channel at this present time.

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Second, one of the challenges we have is accommodating the volume at the price points that we're looking for. A lot of the wineries that are opening up are premium wineries. That's where our success is. We have an amazing place to grow grapes in Ontario, and we're growing these premium, high-quality, award-winning wines that are priced over \$15. We need a channel to be able to sell this volume, and we can't just continue to force it again and again through the same channel if there isn't that ability to do so. Distribution is challenging, and getting and keeping those listings is a huge challenge to us as we go forward.

I want to highlight something. We love to compare, as Canadians. We compared Ontario to BC, and I think the next slide really gives you an indication of the embracing that the BC government has done of BC wines. They have a third of our population, yet they have more than three times the listings of the brands per 100,000 people than we do in the province of Ontario. They sell the same amount of VQA wine through the BCLDB—actually, a little bit more—as we do through the LCBO. Again, they have a third of the population that we do in Ontario. The opportunity is there. They give a lot of preferential



treatment to the VQA wineries in British Columbia: four free features each year, focuses during periods of sales, where we have one here in Ontario. There are lots of opportunities there for us to be able to grow and see success through this channel.

It is also important for the committee to appreciate the third challenge to our business. The pressure from the government to drive revenue makes the LCBO turn to suppliers for some of that money, a strong incentive to aggressively raise fees. For VQA, it has meant that programs that were designed and implemented for us to grow now have significant fees attached to them. We have done an illustration there on the chart to show you, and basically it shows you that the cost of doing business for us at the LCBO has doubled in the last three years.

I want to highlight a couple of quotes from some of our members, because I think they sometimes say it best.

“From 2008 through 2011, our winery has seen a nearly 60% jump in the cost of merchandising our products at the LCBO. This unsustainable trend is a result of rapid program fee increases and new programming we often feel coerced into participating in. While we cannot be ‘forced’ to participate, declining an LCBO invitation leaves a feeling of risk that we may not be asked to participate in a more desirable program again in the future, or fear of losing market share to a competitor. Through the time of these rapid fee increases, we have only seen marginal” sales growth of 8% and volume growth of 5.8%.

A second quote: “Small wineries compete on the world stage with very large conglomerates which have endless resources to develop their markets. They can lower price points, buy advertising at the LCBO and spread these costs over large sales volumes. Small producers pay the very same rates, but have nowhere near the sales volumes to justify the costs. On a per unit basis, small wineries pay an extraordinarily high price, and this cost is borne by the winery, not the customer nor the LCBO.”

I just wanted to highlight some of the feedback that our members gave regarding the impact to their business on an ongoing basis.

**The Vice-Chair (Mr. Phil McNeely):** You have two minutes.

**Mr. Ed Madronich:** Thank you.

Our analysis is clear on some things. Simply opening more LCBO stores will not address our issue—same problem; it’s just more stores to deal with. We’re hearing that more stores are opening up but no more products are entering those stores. It’s the same selection of products, just more stores. Unless there is a substantial shift in the way the LCBO does business, there is no ability for the existing system to accommodate the wine that is available in the marketplace. We will continue to fall behind our competitors, who have far more favourable home market opportunities and programs.

Just so everybody knows, free trade aside, wineries in California have a 60% competitive advantage over me trying to sell in California. The reverse is not true. I have

no competitive advantage over a California winery in my home marketplace.

I’m going to quickly skip over to our approach, because I think this is the most important thing that I want to get across. I’ve heard a lot of talk today about how we are going to change this or how we are going to do this. We have researched and proposed the establishment of private wine shops in support of our goals for growth, profitability and levelling the playing field. First, we know that the province would like to drive more revenue. To us, that necessarily means diversification of access points in a way that is aligned with retail models in other provinces, especially those with wine-producing regions. That diversity of retail offering in those environments has driven great results for their home-market wineries and has been very helpful to observe and understand. In fact, we believe it will add \$250 million per year to the province of Ontario in incremental taxation revenue.

We also pursued the development of a model that lessens the burden of risk and capital cost on the public purse. Our model proposes that the risk in investment comes from the private sector.

Finally, we’re supported in our model with significant public opinion research, model analysis from Grant Thornton and a significant piece of legal work that looked at the legislative, regulatory and trade issues to satisfy ourselves that what we were proposing was viable, sustainable and would offer the benefits to the province that we believed it would. Essentially, what we’re talking about is adding more licences. We have over 15,000 licensees in the province of Ontario that are allowed to sell beverage alcohol direct to consumers. They are currently on-premise. We are suggesting that those licences be extended to sell off-premise as well.

The challenges for VQA wine clearly can be focused for us on opportunities for growth, profitability and levelling the playing field. We have 500,000 cases of wine over the next three years to sell, which we know customers out there want to buy. We know the challenges with the LCBO of accommodating that growth. This is not a criticism of the LCBO on their efforts. They are believers in Ontario wine. I know they want to sell more and more Ontario wine, and they’re doing a fabulous job at it. However, we are committed to finding a solution that can deliver increased government revenues, accelerate growth and profitability of Ontario wineries, a greater selection for the Ontario consumer, and generate more employment in key areas of the province, and we believe that our proposal would do so.

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much. We’ll go to the official opposition for the first 10 minutes of questions. Mr. Hardeman.

**Mr. Ernie Hardeman:** Thank you, Ed, for the presentation. You talk about needing to increase the ability to market that which the LCBO, in your report, says that they won’t be able to handle. Obviously, they can handle as many bottles as we can ship them, but they won’t be able to market those bottles. Could you just quickly



describe to me what that means in changing the marketing structure?

**Mr. Ed Madronich:** Okay. Right now, the LCBO has 600 or so stores, and as they grow those stores, it's still the same number of SKUs. The shelf space is not expanding. What has happened in the Ontario industry is that we've had tremendous success in the growth of wineries. So all of us wineries want to put our wine in the one retail channel that we can sell in. Unfortunately, they only have a certain amount of opportunities for listings, which means that as more wineries come on, existing wineries lose those listings or the new wineries don't have an opportunity to sell into these stores. I think the BC example demonstrates that they have over 1,000 listings in BCLDB, whereas we have around half of that in the LCBO.

So that really is our challenge: How are we going to accommodate all these great wines that are available and get them to the citizens of Ontario?

**Ms. Hillary Dawson:** Just let me add to that. I think the real crunch that we're having—you heard the LCBO talk about it today—is that we're a premium price business. We're the highest price points that they sell, on average, in the LCBO, and that lends itself to selling at Vintages. The general list channel is not necessarily set up to accommodate that volume, and what we're saying is, that half-million cases that we're talking about are primarily focused at the premium end. So we see a real challenge in trying to move that volume of wine through a system like Vintages, in particular, which can only accommodate small SKUs, small releases. You can see the numbers and that number of opportunities is not growing over time; the amount of SKUs available that would be perfectly legitimately sold in that channel are not having a place.

**Mr. Ernie Hardeman:** Going on with the marketing, you speak about 4,000 releases that we need to find a home for; currently, we have 200 per year. Marketing from outside the major marketer in the province, how would I know as a consumer of wine—which I'm not, of course, but if I was looking, how would I find these new releases, not knowing where they're going to be, if they're not sold from central locations? What's the activity that the human being is going to participate in in order to make that happen?

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**Mr. Ed Madronich:** I think that's a great question. The LCBO does a great job in what it's designed to do. The reality is, when it comes to retailing products, whether it's soap or clothes, there are all sorts of different ways that we can purchase. It can be convenience, where it's 7-Eleven; it can be Costco, which is big bulk; it can be Holt Renfrew; it can be the Gap. There are a variety of different experiences. The LCBO delivers one very, very good experience, which is more of a big-box experience than, "Move lots of cases of wine."

Our proposal is to allow different retailing models to be successful and allow entrepreneurs to determine the best way that they can service their customers. A cus-

tomers will then, yes, have to go to a bunch of different places, but they will get different experiences, like they would at any other retailing system.

**Mr. Ernie Hardeman:** This committee, of course, is charged with the responsibility of reviewing the LCBO, how it works and what can be improved to make it work even better. Making the assumption that that's what we're going to do—solve the problems that we hear about within the LCBO—do you believe that there are things that we could do at the LCBO that would accomplish the challenges that you've put in your report?

**Mr. Ed Madronich:** Certainly there are certain things that we can do at the LCBO. Some of the things that we identify are, obviously, providing more listing spaces for the LCBO. That means reducing the quota, potentially, for some of those Ontario wines. The quota is definitely lower in British Columbia. Obviously, the support programs that we use—the marketing dollars, the VQA support programs—are very, very important to our industry. That VQA support program attempts to level the playing field when it comes to imports coming into the province of Ontario.

Yes, there are certain things that we can do that can enhance. Will we get all the way to where we think this proposal works? We don't necessarily think so; that's why we put it forward. Our belief on this proposal is that it's great for the province of Ontario because it collects more revenue for health care and education. We believe it's great for the province of Ontario because its citizens will get more choice. We believe it's great for the province of Ontario because wineries will be successful and create new jobs in struggling areas like Niagara.

It's sort of a win-win-win across the board, as we see this proposal. We think it's the strongest proposal. Are there other alternatives out there that we can do, that we have to do, I think, if we don't do this? Definitely, there are some things. But we believe that this is the thing that's best for the citizens of Ontario.

**Ms. Hillary Dawson:** I'd also add to that that we did focus on the cost of doing business at the LCBO. Let's take the pressure off of VQA wines in this channel for costs. We think there are better ways for the LCBO to get the needed dollars for the province without coming to the smallest wineries, to the home team, for those costs, which are incrementally much larger for them than they are for big imports or for blended wines in our marketplace.

Imports are heavily supported in markets. We just ran a big Italian promotion that has been underwritten by the EU. In our industry, we can support these things in a limited way, but the wineries carry the burden rather than the government. Pricing of programming is no concern to big imports, but it is a concern to us.

**Mr. Ernie Hardeman:** Thank you very much.

Mr. Chairman, I want to correct one of my statements. I believe that's in order. I do drink wine, but I just want to point out that it's always Ontario wine.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Pettapiece.



**Mr. Randy Pettapiece:** I just have a short question. It seems to me, from what we've heard from your group and the other wine-producing groups, that production isn't the problem here. You have the supply and availability of your product. It seems that we have a marketing problem in this province. I just wonder: Do you have any suggestions you could suggest to the LCBO to help you in your marketing end of it?

**Mr. Ed Madronich:** I actually don't necessarily think it's a marketing problem. I think there are people out there who want to buy Ontario wines, and the wines are there. I think it's a distribution problem. The fact of the matter is, the LCBO only lists a certain number of Ontario wines. If I live in Thunder Bay, Ottawa, North Bay, I can only get those wines. It's very difficult, unless you call the winery and know the winery and all that stuff. But when their one retailer can only list X number of wines and it's that same number for every single retail store throughout the province, that is a challenge. It is not, I don't think, a marketing problem. I think people want to buy Ontario wines. It is a distribution problem.

I look at my experience when I worked for Vincor. Don Triggs, who was a leader of our industry, always said it's all about distribution, distribution, distribution. That is the key challenge that we have for small VQA wine producers in the province of Ontario, which is the future of our wine industry, because those are the only businesses that have been created in the last 20 years.

**Mr. Randy Pettapiece:** I guess I used the wrong term here. I should have used "distribution" sort of for marketing—I understand it. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Munro.

**Mrs. Julia Munro:** Yes, just a couple of quick comments. When you talk about the private wine shops, is that what you mean, private?

**Mr. Ed Madronich:** Yes.

**Mrs. Julia Munro:** As opposed to outside the LCBO system.

**Mr. Ed Madronich:** Yes, I mean independent operators opening up an independent wine shop.

**Mrs. Julia Munro:** Obviously, that would be quite a sea change for many people to accept. I'm just wondering whether or not, when you look at page 9 of your third issue, on the margins and these merchandising costs, is that an interim step? Is that something that should be revisited? And is the reason why there are the 200 labels an arbitrary thing? Is there some reason why it can't go to 300 or 400?

**Mr. Ed Madronich:** That would be an LCBO question. They can certainly go as high as they want or as much as they can fit into their stores. That's obviously their choice on the number of skews that they're going to put in and what skews they select.

Just to your first comment about the sea change in the way people think of things, I'm going to beg to differ slightly, in that there's actually, when you think about it, 15,000 licensees that currently sell product in the province of Ontario. There are private retailers that already exist. There are 300 private wine shops in the province of

Ontario that already exist that sell over two million cases of wine, and I'll talk about that. There's the Beer Store, which is also a private retailer in the province of Ontario. So there is a considerable amount of private retail in the province of Ontario.

The only problem is that the wineries in the province of Ontario are not allowed to sell in any of those channels. Whereas in the market for Ontario wines our Ontario wineries sell about six and a half million cases of wine, five million of those cases are sold by two companies, and the other 1.5 million cases are competed against with everybody in the industry, including those two big companies. So the opportunity to expand is, I don't think, revolutionary; it actually exists in the marketplace.

The government has announced that VQA is its focus, yet VQA is denied the opportunity to have that distribution. The challenge is that the legal framework and the regulations that we work in were designed 20, 30, 40 years ago, and it does not reflect the current marketplace where we have independent small wineries popping up all over the place, which is great to see and it's great for the province of Ontario, but we're functioning with a system that was created 30 years ago that didn't anticipate this great success.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. We'll go to the third party and Ms. Forster.

**Ms. Cindy Forster:** If there are 300 private wine stores right now, what do they do about staff education, about monitoring youth coming in to make purchases, monitoring people coming in who may be under the influence? And who picks up the costs currently for making sure that people are educated, and who does the monitoring to ensure that that's happening?

**Mr. Ed Madronich:** I can speak a little bit to that, because I did work for Vincor, who did own 165 of those stores. Certainly, there is a lot of education on going in and training the staff to make sure they are socially responsible, and we see very little to no issues.

What I will say, and what's very interesting about it, is that I have that responsibility. As a winery, I have an on-site retail store. My licence is tied to my being socially responsible. I terminate people for serving anybody who comes into my winery drunk. There is a zero-tolerance policy at my winery. I would argue that my standards and the standards of all wineries in the province of Ontario are at the highest level, because my livelihood is based on me maintaining that manufacturing licence. If I am socially irresponsible in my service, I lose my licence. So I hear the ma-and-pa operations, which I am, that were more worried about profit; our profit is directly tied to our level of social responsibility.

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**Ms. Cindy Forster:** When I look on page 9 of your presentation, you've got a cost outlined with your marketing for the LCBO. What does that cost per case or cost per bottle?

**Mr. Ed Madronich:** There was a great example that somebody gave that they're launching—just to put it in



perspective, another example. Maybe, Hillary, you have that one. I'll maybe allow Hillary to give you a clear example of what happened for a Vintages Essential.

**Ms. Hillary Dawson:** Vintages carries a number of products year-round called Essentials, and one winery sent me the example of when they launched into the Vintages channel. Basically, the requirement was that they take advantage of several opportunities which totalled about \$13,000 to launch into the system. Their initial case order was going to be about 300 cases, and they maybe made about \$15-a-case profit from that. So \$15 a case times 300 is \$4,500, with a \$13,000 bottom line to get started into the system. So it's very cost-prohibitive. As Ed noted, if we didn't have the VQA support program helping us with some of these challenges at the LCBO, we'd have very few wineries that would be able to participate in the system. That was what we saw before this program, that we couldn't get our best wines into the system because they couldn't afford it. And now, with the cost continuing to go up—sometimes not offering anything new, just offering new cost—that's been really challenging.

**Ms. Cindy Forster:** And what are the criteria that are used to delist you once you have a listing?

**Mr. Ed Madronich:** There is definitely a sales quota. The LCBO, I must say, is fair with that. Especially for Ontario wineries, they don't have a sort of zero tolerance if you're below the sales quota. They try to understand the business. They try to work with us to make sure we can stay over the quota. They certainly, in my experience, aren't—you know, if one company's, if one winery's products all fall below quota, they're not going to wipe out a winery, because they know they have some responsibility there. So there are definitely quotas, and there is definitely responsibility on the part of the Ontario winery, but the LCBO works very, very collaboratively with us to ensure that it's a fair approach, for sure.

**Ms. Cindy Forster:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Taylor.

**Miss Monique Taylor:** Thank you for being here with us today. Previously, when the LCBO was speaking with us, I believe the question was asked, "Could there be wine stores made up within—underneath—the LCBO to be able to deal with these issues?" I believe that they found that it wasn't cost-effective. So how is it that you believe that doing this yourselves privately could be cost-effective when you would now have all of these extra things on top of it that they're already providing, like when it comes to education of your staffing and responsible sales and all of those aspects?

**Mr. Ed Madronich:** It's a great question. I think Grant Thornton—we asked someone to go and demonstrate to us that it is possible and it is a viable model. There are already 300 independent off-site retail stores that only sell products from one company and they have tremendous success.

The model is very different. The LCBO has an expected return on investment that goes with the capital, that goes with everything. An independent entrepreneur

has a very different business model. Their requirements are very different than what the LCBO requires to deliver to the province of Ontario. What's great about this model is that it's the independent entrepreneur who has the responsibility to build that business plan and make it work for them. So they may be the one working the store, they may be doing all of the things that need to happen: They order, they do everything. I think that's what makes it a viable option. We see it in all other wine-producing provinces. These stores exist, and they exist to great success. In British Columbia, in Nova Scotia, we see independent, private wine stores existing, flourishing side-by-side with the LCBO.

This is not competitive to the LCBO; this is an enhancement to the LCBO, and it improves the coffers of the province of Ontario. That's why we firmly believe that this goes back to a win-win: more money for the province of Ontario, more selection for the citizens of Ontario, and great success for Ontario VQA wineries, which means more jobs for the province of Ontario. So we really view this as a win-win. We understand the perceptions around it, and that's why we're here: to try to break down some of those perceptions.

**Miss Monique Taylor:** Have you had serious meetings with the LCBO, trying to make it work and trying to put forward these proposals to have these separate wine stores, and trying to make that deal work with them? It would benefit everybody and the wine growers at the same time.

I'm sure you could understand that I think the "privatization" word usually is the most fearful for us, especially. Working with the LCBO to try to push forward those pilot programs or things like that may be the win-win for all.

**Mr. Ed Madronich:** I hope they're smiling behind us. Patrick is smiling. We've only come recently to this opportunity. We have discussed it with the LCBO. I had a conversation with Patrick Ford the other day, and I said, "If it isn't the right thing for the province of Ontario, let's at least have that honest discussion and figure out what is best for the citizens of Ontario."

I am very proud of this industry. We have done some amazing things. Nobody in this province and nobody in our industry knows how good we really are, and I firmly believe that.

We're just trying to find the best way to have wild success for our industry. We're happy to talk to the LCBO. I've had that conversation with Patrick, and I've said that I want to sit down with him and look at it and figure out what is best for the citizens of Ontario. At the end of the day, we believe that this is good government policy. This isn't just good for the wineries; it is good government policy.

**Ms. Hillary Dawson:** The other thing I'd just like to add is that we have probably one of the best working relationships we've ever had with the LCBO in a number of years. It's not as though we're not collaborating; it's not as though we're trying to sell more wine. We've been very, very successful partners with them, especially over



the past several years. I think the challenge is the system, and that's what we're trying to highlight for you today.

If they could sell all this wine, God bless them. Let's do that. That would be easier for everyone. But I just don't think it's set up that way, and I don't think we're set up to be as successful as we should want our wineries to be, for the good of the people in the province.

**Miss Monique Taylor:** Just as a personal comment, I've become quite the lover of red wine in the past while, and I wish you all the best of success. Hopefully, we will all be able to come together to make a plan that will work for everybody.

**Mr. Ed Madronich:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** We'll go to the government now. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Hi, Hillary. How are you?

**Ms. Hillary Dawson:** Hi.

**Mrs. Donna H. Cansfield:** It's nice to see you. Thank you for your presentation.

One of the challenges I always have is when people do comparables and they're not apples and apples; they're apples and oranges. A little bit of that is with British Columbia, because British Columbia is a very small province. It has a very small wine business. It does a little export. It has four million people versus 13 million people. I was interested that you did cases but you didn't do dollars.

The other challenge is that the Fraser Institute just put out a report in 2011 looking at the viability of the sustainability of those private wine stores and whether or not they have long-term growth. Like most things, it's new, but it still has to be proven a bit.

I guess one other question you could ask is that the VQA sales that are in the private stores—are they just so much larger than in the BC liquor stores? I suspect that they're not. I suspect they're very similar. Again, those are things we could talk about.

I really wanted to ask you a couple of questions about the issue of supply and demand. At the end of the day, part of the responsibility of the LCBO is to generate sales, to generate dollars. It's a business enterprise. Small vineyards have that challenge just by virtue of their small area. Do you think it's your responsibility, a shared responsibility or just the LCBO's responsibility to market the vineyards?

**Ms. Hillary Dawson:** The LCBO is the monopoly retailer in this province. They do share some of the responsibility. But we're not just sitting back on our couches waiting for the purchase orders to come in from the LCBO. We're out exporting our wines. We're out hustling to restaurants every single day, where we hand-sell that wine. We're out trying to sell into other provinces. We're out trying to grow that market as much as we can. We're taking advantage of every opportunity.

When we look at the wine that's out there, it's not as though all the wine that we think needs a market has to find it there. We think it has to find it at a whole bunch of places and we're working very, very hard to get out and sell it to those places.

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So it's not solely the responsibility of the LCBO, but I'll tell you, when they have the responsibility, when they're the monopoly retailer for the province of Ontario and it's a pillar of their strategic plan, I think they take it very seriously. I think that they've invested well in it, and I think we've driven good results with the fastest-growing category and highest average price points above imports for a number of years. I think it's a win-win for everybody if they make us more successful.

**Mrs. Donna H. Cansfield:** I guess I have some challenge when—I mean, they have a significant number of stores, but there are 294, almost 300, stores they don't have that are private. You have direct sales to restaurants; you have your own vineyards that sell direct. They're not the only game in town when it comes to selling wine in this province, so they're not truly a total, absolute, complete and utter monopoly. There are other—

**Ms. Hillary Dawson:** To my members—

**Mrs. Donna H. Cansfield:** It doesn't mean that they can't be expanded, but there are other—

**Ms. Hillary Dawson:** To my members, that is a monopoly, because we don't have access to those 300 private stores. We're not able to sell there. Those are held by two companies that sell the wines of those two companies only.

**Mrs. Donna H. Cansfield:** Again, that was something that was set up and grandfathered many years ago.

My other question to you: Do you not think that maybe a better route might be to change the opportunity to use more grapes in our wine as opposed to just the wineries themselves? We have about 25/40. Why don't we make that 40/60? I mean, would that not make a significant difference?

**Mr. Ed Madronich:** Possibly, but again, from our perspective, the future and the government's direction is VQA wines, which is 100%. The reality in our marketplace—you talk about the opportunities to sell. All the wineries after 1993 that were created really can only sell to retailers in the LCBO, and that really is the challenge. There aren't all those other markets, there aren't all these other opportunities for the wineries within the province of Ontario to sell. That is the one place that we can do. They have essentially a fixed number of listings that we can retail our wine at, and that's one of the challenges.

**Mrs. Donna H. Cansfield:** I thought that we just won a fairly significant international award for wine over in France. Don't you have one of the largest exports of ice wine in the world?

**Mr. Ed Madronich:** Yes, we definitely export ice wine. It's one of our biggest exports, and we are starting to export our table wine more and more, which is exciting for us. What has propelled every wine region's success is having a strong domestic market. So if you look at France, you look at Australia, you look at New Zealand, they all have strong domestic markets where they dominate their marketplace, and have a great, strong mark-up structure like California, which has a 60% advantage. If I want to sell a wine for \$20 in California,



I'm going to get maybe \$8. If they want to sell a wine in California for \$20, they get \$17 or \$15 or whatever it is. They have a substantial advantage within their home market versus us.

**Mrs. Donna H. Cansfield:** They have numbers as well. But are all your wineries VQA?

**Mr. Ed Madronich:** Yes.

**Mrs. Donna H. Cansfield:** There's nobody that uses a blended wine?

**Mr. Ed Madronich:** No, because I'm not allowed to do blended wine. The challenge is that all the regulations that govern my winery were created 20, 30, 40 years ago and then, when free trade came in, it said, "Okay, all you can do is this," yet all the legislation remained the same. Legislation has not kept pace with the tremendous success that the VQA wineries have had. That's not to say we want to get rid of ICB wines—great; sell them. I'm not allowed to sell them currently. They can sell, they can grow; they can do their thing. However, we need to update the legislation to reflect the policy direction that the Liberal government has said is their focus, which is VQA wines, which we all agree are the future of our industry.

I think everybody who has been up here, all the stakeholders, have all said, "We want to see VQA grow. That is the future of our industry." We all know that that's the future of our industry. Legislation and regulation need to catch up.

**Mrs. Donna H. Cansfield:** My understanding is that in fact your VQA has grown by 34% in the last number of years, with the new opportunities through the LCBO.

**Mr. Ed Madronich:** Yes.

**Mrs. Donna H. Cansfield:** So obviously they haven't been negligent in working with you in terms of promotion of your wines. Again, I get down to that it's an issue of supply and demand and the marketing.

**Mr. Ed Madronich:** Let's be clear: The LCBO has done a great job with the system that they have. I think the LCBO does a tremendous job. They've grown it; we've outpaced it. We are a higher price point.

The reality is, our industry is different. It's not two or three players. The LCBO has driven sales on a limited number of players, a limited number of wines, because they don't have that ability to sell all 2,000, 3,000 SKUs that we produce. And so the challenge is not a question of whether or not the LCBO is doing a bad job. We're not suggesting getting rid of the LCBO. We think that the LCBO is doing a great job, and we would expect them to continue. We just want to augment the system to allow for more SKUs to be sold, more selection for Ontarians and better growth for our industry.

**Mrs. Donna H. Cansfield:** Thank you very much, Ed. I'm going to continue to read the ongoing report out of BC around their stores and see again about the viability.

Do you have a question?

**The Vice-Chair (Mr. Phil McNeely):** You have one minute.

**Ms. Helena Jaczek:** Yes, just to follow up: As Donna sort of alluded to, do you know whether the 12 private

wine stores that BC has, whether VQA is a higher percentage of their sales compared to BC liquor control?

**Mr. Ed Madronich:** That's a great question, because I think there's a little bit of a misconception. In British Columbia, there's the BCLDB, which does a tremendous job, as you can see, selling VQA wines. Those are those numbers, those are the number of SKUs, and that's what they sell. They also have 30 VQA wine stores. Those came in a number of years ago and they only sell VQA. It was only recently, in the last four or five years, six years, whatever—it's going fast—that they opened up LRS stores to retail wine. There are more than 400 or 500 of those stores that sell wine, beer and spirits, and they are very, very successful, and they're very, very successful for BC wineries. So the distribution isn't just these VQA stores, which, quite frankly, aren't really profitable. But that's 30 of the 500 or whatever the number is that are outside of the BCLDB. Those VQA wine stores have been there for a number of years.

What has happened recently in BC is that they've opened it up to import and domestic wines—and spirits and beer, quite frankly—and those retailers have been very, very successful. Because the structure is very much like our direct delivery licensees here, domestic wineries have been ridiculously successful in that channel, so it has been a wild success, I would argue. Vineyard prices, just to put it into perspective here: \$50,000 and less for vineyard land here in Niagara; \$150,000 an acre in the Okanagan. So it has been a wild success, I would argue, in British Columbia.

That, to me, is what we believe we can achieve here in Ontario: wild success. We are so underdeveloped, I believe, as an industry. If we can get the right legislative framework for our industry, we can be wildly successful, and that's what we're requesting.

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much. Time has run out. Thank you for your very strong voice on behalf of the Wine Council of Ontario.

**Mr. Ed Madronich:** Thank you.

## ONTARIO VINICULTURE ASSOCIATION

**The Vice-Chair (Mr. Phil McNeely):** The next presentation will be the Ontario Viniculture Association and Mr. Jim Warren. You may start your presentation, and give us your name when you do so for Hansard.

**Mr. Jim Warren:** First of all, thank you for the opportunity to say a few words today. Most of you people do not know me, so I can give you some background there. I'm the founder of the Stoney Ridge winery. I've been a winemaker for 27 years in Ontario. I've taught winemaking at Niagara College. I've helped at least 10 wineries get off the ground in Niagara and in New Brunswick. I'm an advocate for small wineries. I'm a consumer. I live in Miss Taylor's ward in Hamilton.

You're going to hear from me very much the same kind of thing that you've heard over and over again today, but in my experience as a teacher, repetition really isn't a bad thing.



I'd also like to correct the impression about the Ontario wine industry. It's not 65 years old; our industry goes back to the 1850s, 1860s, and during the 1870s it was extremely vital and vibrant. Our wine industry certainly does predate the liquor control board.

Also, in Ontario, excluding imported wines, there are four kinds of wines: the international-Ontario blends; VQA; 100% Ontario, which may be wines that have failed VQA or which are, because of the grapes involved, ineligible for VQA; and lastly, there are fruit wines: wines made from fruit other than grapes—perhaps honey and maple.

1540

I think those last two categories usually fly under the radar, and you don't hear that much spoken on behalf of those wineries. Many of them do not belong to the wine council and others cannot belong to the wine council.

In this day and age, one might legitimately wonder why anyone would wish to critique an institution as venerable and financially successful as the LCBO. As a business, it employs a lot of people in Ontario and it continues to grow every year, adding additional wonderful stores province-wide. It makes a good effort to fulfill the expectations of the three groups involved in its activities: the government, which enjoys windfall profits from its operations annually; consumers, who are offered an astonishing selection of products in every price range, which makes the word "control" in its title somewhat of an oxymoron; and its suppliers of various shapes and sizes from countries around the world.

Yet here we are today considering the perception that the LCBO, which sells far more imported wine than local wine—you've heard different figures today; my figures come from the WGAO: approximately 69% to 31%, and in Vintages, 96% imported to 4% local. So it's failing the Ontario wine industry and, likewise, the grape growers of the province. This might have been understandable during our Concord and Catawba past, but I'm not biased when I say that today we are making wines of distinction, truly world-class wines, and our sales history really has never changed to reflect this. This percentage is the opposite of most wine-producing countries, where the sale of local wines usually ranges between 70% and 100% of total wine sales. Ed just mentioned the fact that local wines dominate in so many other countries. Why can local wines not dominate in Ontario?

We have had agreements with the LCBO to change this—Debbie Zimmerman used the word "commitment" a few years back—to hit a target closer to 50% for all Ontario wine sales. This has not happened, and the LCBO has never been held accountable, while sales of imported wine continue to increase and while senior LCBO staff continue to be rewarded with significant annual bonuses—surely a conflict of interest in this day and age, in this economic climate, considering the competitive nature of the business.

The LCBO may well feel that it is doing a fantastic job—and I think most consumers would agree—while the Ontario industry, which sees the LCBO as its major

customer and a partner, as well as a competitor, which is a strange relationship, would obviously like to have better sales results in its favour.

There is the feeling that where there's a will, there's a way. First of all, we need the will. As it has been indicated to me today, somebody, somewhere is going to have to sacrifice in order to make things work. To this end, the wine council, the WGAO and the GGO are constantly working for their members to facilitate the growth of the grape and wine industry. I think you've seen the knowledge, the expertise and the passion that the representatives from these organizations have.

Today, I would like to speak briefly on behalf of two other associations, OVA and FWO, that comprise over 100 mostly very small—call them artisanal—wineries, who are located all over Ontario; some in our DVAs, others everywhere from Ottawa to Muskoka to Sudbury and Simcoe, and whose voice is not often heard by the other associations. Some of them make VQA wine, but they also make 100% Ontario non-VQA grape wine and fruit wines—all of which they would like to sell at their one and only retail store to licensees and even to the LCBO. Many of them do not sell in the LCBO system, but they all have a relationship with the LCBO, whether as customer or not, as a result of the LCBO's involvement in regulatory issues, product testing, audits and submissions of monthly reports. These are wineries where the same person who pours samples for you in the tasting room is the winemaker and the sales force, and has to deal with all the paperwork each month as well. Just doing the monthly reports might take a small winemaker up to a day of his time. Well, that's to be expected.

I'm not sure if anyone has analyzed the costs of compliance for small wineries, but I do know that VQA charges are continually increasing as the LCBO tries to recover its own costs, and that testing fees work out to be much higher per bottle for small-volume wines. One wonders if wineries really require auditing every five months—and I understand that may be changing. Perhaps the issue of monthly submissions of documentation should be evaluated.

In the brief time I have today, I'd like to say a few words about the LCBO listing/delisting process and related issues, and comment on government policies involving the LCBO that unfortunately discriminate against many of these small wineries, severely restricting their participation and ability to succeed in this industry.

When we started Stoney Ridge in 1985 as a very small winery, number 18, I was immediately provided with six LCBO listings. Well, times have changed. We now have somewhere near 200 wineries and a listing process that is highly competitive and involved. It's the same for all wineries, who are expected to fulfill a number of conditions, including a marketing plan and an indication of how you will assist the LCBO to sell your product. For wineries—

**The Vice-Chair (Mr. Phil McNeely):** You have one minute, so if you could sum up.



**Mr. Jim Warren:** Oh, I've got lots to say. Maybe you can cut down on the questions.

For wineries who have only small volumes of non-VQA wines to sell, this is a daunting task. In truth, the LCBO is not anxious to list such wines, wines that may sell in small volumes and slowly, which is in conflict with their business model; and consequently, listing opportunities are rare.

The process itself requires patience while wines are considered and evaluated, and the answer is, more often than not, disappointing. I was talking with one winery today that had just recently been informed that of their eight submissions to Vintages, one had been accepted. It had nothing to do with the quality of the wine; it was all about their packaging and, perhaps in one case, the price. Wineries are obligated to hold product in reserve, and they may have to do this longer if accepted for a listing. Sometimes the order will not be as expected if the LCBO purchasing budget happens to be tight at that time. These issues help explain why there are only two or three Ontario fruit wines in general list and rarely any in Vintages.

In addition, there is no dedicated shelf space in any LCBO store for such wines, which usually end up being placed beside the ports and sherries. This doesn't help their sales.

In this pay-to-play environment, wineries are expected to participate in merchandising endeavours which small, artisanal wineries find prohibitive. They cannot afford to buy shelf extenders, or end aisles, provide limited-time offers or air miles, or take ads in glossy publications—

**The Vice-Chair (Mr. Phil McNeely):** Could you wrap up in 20 seconds, sir?

**Mr. Jim Warren:** Sure. I'll try.

If you read through the balance of the presentation on your own, you'll find that there are certain policies which do discriminate against these small players. They do not benefit via the VQA support program. It means they receive much less of a return when they sell their wine in the LCBO or when they sell their wine to licensees. It makes it very difficult, very uncompetitive for them, trying to sell their wine other than at the retail store. The retail stores are usually out in the boonies. They are extremely fragile. Like many of our wineries, they depend on people getting in their car and driving to the winery to buy their wines. It's a difficult environment.

1550

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much. I think we've gone a couple of minutes over there. It'll be the third party and Miss Taylor.

**Miss Monique Taylor:** Thank you for being here with us today. I hope that you enjoy living on Hamilton Mountain as much as I do.

I realize that you do have quite a bit here to speak about. You were just starting to hit on a topic that—well, not starting. Your whole presentation here is about small wineries and breweries being able to get onto the shelf space. We would like to forfeit our time and give that time to you to please go ahead with your presentation.

**Mr. Jim Warren:** Thank you. I'll see if I can remember where I left off. I think I was on page 3.

On a \$10-bottle sale, which brings a normal return of about \$4 to the winery, VQA wines would receive an extra \$3 in the special program. That's money which can go a long way to help market products and sustain listings.

In summary, we have wineries which could benefit by some LCBO exposure and sales, which are really not wanted there, which find it difficult to get there, which have nowhere to go if they get there and which, in the end, do not make an equivalent return on their wines as VQA. It's wonderful to support VQA, and these wineries are hoping to move in that direction. But the way it is right now, they may never get there.

If the product does not sell, for whatever reason, delisting can be a financial shock for any winery, which may be left with considerable unsold inventory on its hands as well as the LCBO invoice for putting the wine on sale. Few small wineries can afford to take this risk. Even though producers of 100% Ontario grape and fruit wines contribute only a fraction—in truth—of total wine sales, is it fair that they just accept unequal financial compensation for sales in the LCBO? Would other wineries not complain if these wineries themselves were given special consideration by the LCBO in listing or pricing or shelving?

Our larger wineries, though few in number, benefit tremendously by having considerable shelf space for their blended products exclusively in every LCBO store. I went into one store and discovered that blended wines get 50% more shelf space than VQA. There were only eight wineries represented in all that shelf space. In the VQA section, there were 26—this is an average store—wineries listed. We have 130 VQA wineries. We have 26 on sale in this store.

We are often told that LCBO stores do not have rubber walls and they simply cannot accommodate all of our wineries, yet any attempt to develop other sales channels to do just that is considered a threat to the LCBO's bottom line. To help small wineries, we need other retail options in addition to the LCBO, like the ability to sell at farmers' markets, a program that has been very successful in other provinces and several American states—not in Ontario. An effort to achieve this almost succeeded for Ontario fruit wines on a trial basis, but unfortunately that was rejected in the end by our government.

Since it is so difficult to satisfy the needs of many wineries in the LCBO, it has also been suggested to allow every winery, not just our grandfathered few, to have the opportunity to participate in more than one retail store. I don't know whether that would work or not. It's expensive. Wineries are going to have to pay the cost. But it might end up selling more wine. It has even been suggested that we could sell VQA wines in Brewers Retail stores, a move that would surely increase VQA sales. To increase sales of wine by direct delivery to licensees, it has been suggested to allow all 100% Ontario



wines to receive the same financial treatment as VQA. Why should some Ontario wineries pay the LCBO more for direct-delivery sales than others, considering that the LCBO is not really involved in the sale at all and that all wineries have the same expenses? That additional revenue would certainly encourage more small wineries to try to sell to licensees.

I've mentioned some other difficulties which are pretty much to be expected in an LCBO system that is huge. It's for big business. Most of the wineries in Ontario are small business, and that's a disconnect. Something has to be done about it. When you have these policies of government, they're not initiated by the LCBO, but they're policies that discriminate. This has to be considered unfair. It's wrong in this province. Let's give these small players a chance.

VQA wines were small potatoes a few years ago. They've done extremely well. I don't understand why we downplay the quality of our fruit wines in this province, which is so well-known and respected for its fruit.

That's the end of the presentation.

**The Vice-Chair (Mr. Phil McNeely):** Would you like to continue? Miss Taylor, you have three more minutes. Thank you very much, then. We'll go to the government and Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you for your presentation. It was really interesting. I have a couple of questions.

Does the LCBO currently sell any fruit wines?

**Mr. Jim Warren:** There are perhaps two or three in general list, and two of those arrived there because the LCBO had a program for small VQA wineries which would allow them to deliver, themselves, to 10 local stores. This one fruit winery worked extremely diligently to get their fruit wine into 10 stores, knowing very well they weren't going to get much money back, certainly not what VQA wines of the same price would get. And then they pushed the envelope. They got their wines into additional stores, and through very hard work, they have managed to get a general list. That is the exception, not the rule.

**Mrs. Donna H. Cansfield:** Okay, I guess I share with you—I don't think it's a VQA issue or a fruit wine issue. For example, do you have any surveys that speak to how many people drink fruit wine?

**Mr. Jim Warren:** I don't think we do.

**Mrs. Donna H. Cansfield:** I mean, if it's a supply and demand issue—

**Mr. Jim Warren:** All I can tell you is from my own experience, I started making fruit wines in the early 1990s at Stoney Ridge, and they were always extremely popular. We always sold out our fruit wines.

One wine in particular, cranberry, is probably the top-selling fruit wine in Ontario. It's amazing how many people want cranberry wine at Thanksgiving or even for Christmas. The LCBO has sold this cranberry wine for a number of years. They've never raised the amount of wine that they purchase, even though we have liquor

stores that call the winery asking for more wine. We can't deliver it to them. The LCBO doesn't order enough.

**Mrs. Donna H. Cansfield:** Is that a production issue that you can't—

**Mr. Jim Warren:** It's not a production issue, no. It's a distribution issue. They won't order enough and they will certainly not repeat a sale, which is strange considering the wine is selling extremely well.

**Mrs. Donna H. Cansfield:** I'm sorry, by "repeat a sale," do you mean a price point or a price point on sale?

**Mr. Jim Warren:** No, just a repeat order of that particular product. And Christmas follows very closely on Thanksgiving. Usually the wine is sold out by Thanksgiving and there's no more of that wine in the LCBO system for Christmas.

**Mrs. Donna H. Cansfield:** So then the LCBO does in fact support and help you in terms of the merchandising, for example, the cranberry wine at Thanksgiving, when there is a supply requirement.

**Mr. Jim Warren:** I think the LCBO understands very well that these small wineries cannot contribute the financial support that others can, and they have been very accommodating. The LCBO conducts a testing program for fruit wines called the quality-certified program, which is virtually the same as for VQA. But that's where all things end. We can put quality-certified on our label, but there are no financial benefits that accompany that certification as there are with VQA.

**Mrs. Donna H. Cansfield:** Okay, but that's not a LCBO issue; that's more a policy or government issue.

**Mr. Jim Warren:** That's true.

**Mrs. Donna H. Cansfield:** So in fact, the LCBO is doing what they can within their mandate to be able to support you.

**Mr. Jim Warren:** If they would order more wines, I'd be even happier.

**Mrs. Donna H. Cansfield:** Okay. Thank you very much.

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**The Vice-Chair (Mr. Phil McNeely):** Further questions? Thank you very much.

We'll go to the official opposition. Mr. Hardeman.

**Mr. Ernie Hardeman:** Thank you very much, Jim, for your presentation. I just want to go back a little bit to make sure I understand the issue of ordering the wine, selling it very quickly and then not ordering more. Is that a policy that keeps them from ordering more?

**Mr. Jim Warren:** Well, that seems to be the way Vintages operates. Unless you are in Vintages as an ongoing listing, which will keep drawing product to fill the shelves, that's the situation. There will not be a repeat order, even if the product sells out very quickly.

**Mr. Ernie Hardeman:** Let me get this straight now. The problem with shelf space at the LCBO is that we only have room for so many different labels and different types of wine, and you have to, shall we say, buy the space for it. When you have the product there, and the sales are higher than they have taken in—if you put more



in than what's sold, you would end up getting it back, right?

**Mr. Jim Warren:** If your product does not sell, if it's delisted, you are obligated to assist the LCBO financially in reducing the price of the wine. I know of one fruit wine in particular that sold perhaps three quarters of its product over the period of time, and then was told that they'd have to take the balance back, and at a discount. For a very small fruit winery, they would have to more or less pay a fee for the privilege. That's pretty hard to take.

**Mr. Ernie Hardeman:** I know it's hard to take, but I understand that they have to do that. Obviously, when I have a product that I—

**Mr. Jim Warren:** Yes, they do. They make an agreement to that effect.

**Mr. Ernie Hardeman:** Yes. If I have a product and I put it in, shall we say, almost on consignment or that type of thing, obviously if it doesn't sell, I have to find some way to either send it back to the supplier or I have to sell it at a reduced price. I can understand that they do that. But my question really is, why are they inhibited or why can they not reorder? When I get a product in my store and it sells really quickly, the first thing I do is look at how fast it's selling and see how quickly I can get another order in so I won't run out. Why can they not do that?

**Mr. Jim Warren:** I can't answer your question. I don't know.

**Mr. Ernie Hardeman:** Okay. Ms. Cansfield's question seemed to indicate that it was something to do with the quality of the product and so forth. But the approval of the product would be there because you've had the first shipment—

**Mr. Jim Warren:** Right. The product has already been approved, yes.

**Mr. Ernie Hardeman:** The other thing I just generally wanted to ask—I think you mentioned in your presentation the number of fruit wineries that we have. Do you have any idea what the success rate is? I mean, there must be fruit wineries that start and then, because of the marketing challenges they face, they're not long doing it. Is that a problem?

**Mr. Jim Warren:** I know of two fruit wineries out of perhaps 20 that are not in business today that were in business perhaps 10 years ago—or eight years ago, in one case. Two fruit wineries, to my knowledge, have failed.

**Mr. Ernie Hardeman:** When we talk about failed, obviously there's different reasons why people fail. Is it evident that it was primarily the marketing of their product as opposed to the—let's be honest about it—quality of their product, that if the wine was no good, it's no wonder they failed?

**Mr. Jim Warren:** I don't think that was the case. I firmly believe the quality of Ontario fruit wines has increased dramatically over the last few years. These people were making award-winning wine. They had a pick-your-own apple operation up north of Toronto. They were just too far off the beaten track to bring in traffic.

They were not in the LCBO; they could not get into the LCBO.

**Mr. Ernie Hardeman:** Does the fruit wine industry have any fruit wine on the shelf all the time?

**Mr. Jim Warren:** In the LCBO?

**Mr. Ernie Hardeman:** Yes.

**Mr. Jim Warren:** Yes.

**Mr. Ernie Hardeman:** Okay. With that, I'll turn it over.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Pettapiece.

**Mr. Randy Pettapiece:** Yes, just one: What's the volume, I guess, of the wines you're talking about? Is it a big volume in Ontario?

**Mr. Jim Warren:** No, we're talking about quality, not quantity, for sure. Most of these people are very passionate about what they're doing. When they got started in the business—the government was very fair in allowing them to start, way back in 1993—they were looked upon as, "This is a value-added experience for them." Once they made the investment, they soon discovered that they had bills to pay and they had better start selling more product than they perhaps had envisioned. They, like any winery, have to sell to pay fairly substantial bills. Even though it's a value-added operation for many of them, they still need to make money. They still need to sell their product.

Not only is it difficult for them to get into markets, but when they do get there and they do not make the same return as VQA wines, it's self-defeating. Why would you work so hard to sell your wine and deliver it to a licensee when you're going to be paid less than an equivalent VQA wine? And your wine probably has gone through the quality certification process, just like VQA. It's a 100% quality wine.

**Mr. Randy Pettapiece:** What I was trying to get at is: Because this, in the grand scale of things, is a small part of the business, maybe it's difficult for the LCBO to designate enough space.

**Mr. Jim Warren:** I agree. So let's give this part of the business a little better opportunity. We tried that with farmers' markets, an ideal location for fruit wines, but that was turned down by the government.

**Mr. Randy Pettapiece:** You would prefer that over the LCBO if you had to have a choice, let's put it that way?

**Mr. Jim Warren:** The two or three wineries that are in the LCBO like to be there. They still would like to make a little more money on their product, compared to VQA. Why not? But certainly farmers' markets give everybody an opportunity to sell more wine on the weekend, let's say, and help them stay in business. It is small potatoes, but that's what these people are all about. Unless they're starting to grow, they really are not an LCBO item.

**Mr. Randy Pettapiece:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** That's the end of questions. Thank you very much, Mr. Warren, for being here on behalf of the Ontario Viniculture Association.



## ONTARIO CRAFT BREWERS

**The Vice-Chair (Mr. Phil McNeely):** We have next—we change beverages here—the Ontario Craft Brewers to make their presentation: Mr. John Hay. You may start your presentation. You have 10 minutes. If others are to join in, just give us your name so that we'll have that for Hansard.

**Mr. John Hay:** Thank you very much. Mr. Chairman, committee members, it's a pleasure to be here today. Just in terms of format, I'll go through these comments that are handed out quickly. I'm going to ask each one of our members, whom I'll introduce in a second, to make a couple of opening comments. Then we're yours for the rest of the period to answer questions, if that's okay.

Back into this: I'm here with some of our brewers to speak to you briefly about how important the LCBO is to our future. First, I'd like to introduce our brewers. On the far left is Steve Gill, who's the managing director of the teaching brewery in Niagara College; Cam Heaps, who's the president of Steam Whistle; Irvine Weitzman, who's the president of Mill Street; Peter Bulut, who's the president of Great Lakes Brewery; and Sean Fleming, who's the president of King Brewery.

Following my general remarks—I said that; I'll skip that. By way of background, I head up—

*Interjection.*

**Mr. John Hay:** Excellent. We wanted to bring beer but we didn't think we could.

**Miss Monique Taylor:** Oh, you're allowed.

**Mr. John Hay:** Were we? All right. We'll be right back.

By way of background, I head up the Ontario Craft Brewers Association. We currently have 30 active members, and we are in touch with all of the past members and with the other new operating breweries, of which there are about 15 in total. There are also another seven contract brewers and another 30 in various planning phases. You can have a look at this map. It shows a lot of the operating breweries on this map. It has been handed out, I believe.

In 2011, we had over 700 direct brewery jobs, which is about 25% of the total direct brewery jobs in Ontario. We have about 3% of the share. That is an increase of 400 jobs since 2003, when the key incentive programs were put in place and when our LCBO partnership program began in earnest. We estimate that another 450 new jobs will be created by 2016, five years out. These numbers were done in 2011.

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Our market share is currently about 3%—I mentioned that—and it has doubled since 2007. It's doubling about every five years right now.

We are growing our sales volume at over 10% per year. In the LCBO, where there is an excellent shopping experience, our sales are growing in the 30% to 50% range. This is, by the way, a very good indication of our full growth potential because we are competing alongside numerous import and domestic facings in the LCBO

stores. Unfortunately, we do not have anywhere near the same consumer exposure or growth rates in Ontario's bulk beer retail monopoly, as much of our beer is literally behind a wall. That is another key reason why the LCBO has been and will continue to be crucial for us.

In 2007 our craft brewers' premium-priced TBS sales were 150% of LCBO sales. In 2011 they were only 70%. We predict that by 2016 they'll only be 40%. In other words, our true growth potential is expected in the LCBO. Thank goodness it exists. Most of our members sell in the LCBO, while only about half sell in the Beer Store.

We began our partnership with the LCBO in 2003, when we worked together to create a brand called Ontario Craft Brewers, OCB, and when we produced our 10-year strategic plan. I can show you that document after if anybody wants to see it. The OCB branding has worked very well and is receiving recognition far outside Ontario. The strategic plan led directly to an ongoing marketing grant which has helped enormously to build the brand and to grow sales.

A number of LCBO programs have been developed and used over the years, including many staff education sessions, a number of seminars on working with the LCBO, Ontario craft beer bulkhead signage in 90 partner stores, a fixture program featuring Ontario Craft Brewers and numerous free-standing insert publications.

In addition, there has been continually improving access to refrigerated areas—that's very key for us—new local fridge programs and community promotions, 12 Discovery Packs, numerous in-store events, a very comprehensive in-store merchandising program, wonderful co-operation on consumer communications and an ever-increasing focus on LCBO beer-driven promotions. We just had our third annual OCB craft beer launch at the Summerhill beer store and Bob Downey was one of the speakers.

These programs are all outlined in our benchmarking report, which looks like this. If anybody wants to see it afterwards I'll show it to you. It describes in a lot of detail, in the back, these LCBO programs. I don't really want to read it into the record or hand it out in the committee, so I'll show it to you after.

In addition to that, we have excellent access to the management team at all levels and have developed some simple formats for communicating that don't require a lot of paperwork. These processes are very valuable for issue resolution and idea generation.

One last thing that I don't think anybody has spoken much about is the LCBO's responsible use programs, their testing and carding programs and their "There's an elephant in the room." These are very, very good programs, and we commend them for those programs.

The LCBO objective to showcase Ontario craft beer has been and will continue to be a critical step in achieving our vision of making Ontario a North American centre for craft brewing excellence.



Thank you very much. Starting with Steve, I'll just go right across. I don't think we've used up the 10 minutes yet.

**The Vice-Chair (Mr. Phil McNeely):** No, you have three minutes.

**Mr. John Hay:** Three minutes, so you've got a few seconds each, guys, and then we're in response mode.

**Mr. Steve Gill:** One of the main things I'm hearing today is—again, I'm Steve Gill from Niagara College Teaching Brewery—access to market. That's really important for the craft beer industry, to be able to get our product out there and to let the people of Ontario enjoy it.

**Mr. Cam Heaps:** Hello again. My name is Cam from Steam Whistle. As you know, we operate in an industry with three retail opportunities, one being our own manufacturing retail store, one being through the Beer Store, owned by two of our large competitors, and then the third being the LCBO, owned by the government.

I can tell you, for a brewery that started in 2000, and here we are in 2012, we've been very fortunate to enjoy a strong level of growth and success, and a lot of that could be attributed to the LCBO retail format as well as the strength of the management team over there. It's funny, when you think of a retail operation owned by a government and one owned by your competitor, but considering such, I can honestly say that I believe the LCBO is one of the better retail environments we've worked with across this country.

**Mr. Irvine Weitzman:** Hi, it's Irvine Weitzman from Mill Street Brewery. As both John and Cam have pointed out, the Ontario Craft Brewers have had significant success over the last few years, and there's absolutely no question it would be impossible without the both early and enthusiastic support that we've had from the LCBO. As Cam points out, the only alternative in a practical sense for us is the Beer Store, where we have, of course, very limited visibility, which therefore depends on your own marketing. And in fact, the LCBO's visibility helps us sell into the Beer Store. Also, I think it's fair to say that as we travel the country—we now sell in most of the provinces, all except Quebec—I think Ontarians can truly be proud of the LCBO's style and ambiance that you see and experience in the LCBO.

**Mr. Peter Bulut:** Hi. Peter Bulut, from Great Lakes Brewery. My family has owned Great Lakes for over 20 years now and I can honestly say, in the last five to seven years, with the formation of the Ontario Craft Brewers and the support of LCBO, our growth has been its biggest, and primarily the last three years, which is really a direct result of LCBO, which now represents about one third of our business. I can honestly say, in terms of marketing and wanting new products, their arms have always been open.

Some of the comments I heard today actually resemble 2002-03, where, I think, LCBO at the time was the elephant in the room and was a little bit intimidating for a small guy. But as soon as you go knocking on the door, we found that they accepted us with open arms and

started craving more products from myself and my comrades. Thank you.

**Mr. Sean Fleming:** Hi. Sean Fleming from King Brewery. I'm going to echo some of the similar comments made earlier here. As a smaller brewery, though, we face different challenges. From my perspective, the LCBO has been a great partner not only in helping us build brand awareness through their platforms and their selling opportunities, but also through distribution. Quite frankly, we don't have the facilities to store our product, and they've been a great help for us.

Finally, I think it's incumbent upon suppliers and producers like myself to provide great quality product, and if you don't have the product, you're not going to sell it. It's pretty basic. I think the LCBO does an excellent job of weeding out the strong product versus the weak product. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** I thank all of you. We go to the government, and Ms. Jaczek.

**Ms. Helena Jaczek:** Thank you to all of you for coming down here. I'm really intrigued about that original 2003 strategic plan that you put together with the LCBO. I've got a series of questions in relation to that, John. Was the initiative essentially from the craft brewers themselves to the LCBO? In the process, it sounds from all your comments that the LCBO was kind of interested and willing and interested in sitting down with you. As you developed that strategic plan, I'm sure you put in place some targets in terms of sales volume and other items. Maybe you could elaborate on those. And over the last nine years, how realistic were those projections, and how have you done? Just so that we get a sense—we've heard from others obviously, VQA and ICB, in terms of their desires to see their market share grow and yet somehow they haven't been able to achieve what they would really like to see. Could just tell us your experience in sitting down, developing that strategic plan, the kinds of projections you put in place and your ability to achieve those?

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**Mr. John Hay:** I'll answer the last part of the question first, and then I'm going to ask Cam to jump in on the first part because he was very involved in the beginning. This is the plan.

The one thing about the way it started is in many ways the LCBO came to us and said, "You've really got to put a brand together"—Andy Brandt was in the chair at the time—then they helped us with some of the funding and putting the team together, and we had a fabulous team. I'm going to let Cam talk about that in a second. I want to flip over to targets.

The resulting plan called for a spend of around \$4 million a year. We secured a grant of about \$1.2 million and then that was the main funding. As our brewers grew and as other things came into place, our spend would have increased. The forecasts in there were to hit about a million hectolitres by 2014; we would be at around 450 now. The growth that we would expect in the LCBO far exceeded any of our expectations. You look for growth in



the 10% 12%, 15%, 17% range when something takes off. This is really taking off. This industry is on fire. Where the growth hasn't been possible is in the Beer Store, and we haven't had quite as much funding. If, for example, all the beer was sold in the LCBO, we would be well past that million-hectolitre figure now.

We can come back and talk about that at length with everybody, but I think I'm going to flip to Cam for a second and let Cam talk a little bit about this process because he was very involved with it at the time.

**Mr. Cam Heaps:** The group that put the plan together was a collaboration of the LCBO, the AGCO, the Ontario Craft Brewers, as well as an independent marketing company that had done some work for the LCBO. They took us through—and Bob was there, as well—a strategic planning session, really trying to better understand the market for craft beer, where the consumer trends were going to come, as well as looking at some of the success the Ontario wine industry has in working collaboratively together, and set a 10-year goal. We're just about there, to sit down and start looking at it again.

Nine years ago was a very different day in our industry than it is today. If we had not had the foresight to get together and put that plan together, we would not be in the position we're in today, which is to continue to move towards a position of leadership in North America. We would be trailing. Right now, we are comfortably in a position to actually continue forward on securing that goal of creating Ontario as a craft brewing centre here in North America. It's a position that is not owned yet in North America, and it's there for the taking.

**Ms. Helena Jaczek:** So you would attribute a lot of your success to bringing everybody together to the table and moving in concert, essentially, on the objectives that you outlined in your plan.

**Mr. Cam Heaps:** Absolutely, and it was the LCBO which initiated the first meeting.

**Ms. Helena Jaczek:** Can you share some of what you're looking for over the next 10 years?

**Mr. Cam Heaps:** Well, the easiest number to get your head around is market share. Ontario Craft Brewers, 20 years ago, had about as close to 0% of the market as possible, and here we sit today with about 3% of the market. That's happened in a very short period of time. If you look south of the border in the States, the craft brewing market is now representing about 6% of the industry, and if you look at other parts of Canada, it's creeping up over 3%. What's holding us back in Ontario largely is the Beer Store. We should be sitting at around 4.5% or 5% right now. But those are issues for another day.

I think what you'll see is, as the overall beer industry in Canada remains flat, as it has for the last 30, 40, 50 years—depending on whether you get a hot summer, it might flip a point or two north or south—if you look at those overall industry numbers, to have a segment that is on fire and has been growing in double digits for many years and continues to speed up, you can see a really major consumer trend coming which reflects what we're

seeing in food: People want to support local and independent. The LCBO seems to be really in tune with that with their retailing and their customers.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you for your presentation. I'll make a comment and then ask you a question. I don't know if one of your unintended consequences is how you market to women, because it's probably one of your more difficult areas; we don't drink a whole lot of beer. But I will tell you, because you are—

**Mr. Cam Heaps:** You did invent it.

**Mrs. Donna H. Cansfield:** We did invent it, right. But one of your unintended consequences of being in the LCBO is that I can buy one or two. As a woman, I don't buy 12 or 24 of anything that I don't know what it's going to taste like. So I go and select a little of bit of this, a little of that, and it's great; I love it. I found a great organic beer that's wonderful.

My question to you is around the 450 jobs that you have anticipated in the future. Where do you see that coming and how do you see that evolving?

**Mr. John Hay:** That's just based on our volume forecasts. We forecast currently for essentially, to use the term Cam was using, two more doubles. Our share doubles every five years, so we'll do two more doubles. That would take us from around 200,000 hecs to 400,000 to 800,000. Some of the jobs will end up in the larger brewers, Steam Whistle and Mill St. They'll be in the Toronto area for sure because that's close to the market. But if you look at distribution curves of how the volume is spread out, it starts to move right across the province. You could easily see almost every reasonable-sized community with a craft brewer. You'll see some farms develop craft breweries as well so that they can do the whole experience. But you could easily see small breweries—not necessarily large, but small, with four to 10 employees—right across the province. In smaller communities, they will become basically the centrepiece, the anchor business in that small downtown community. There's no reason why not. They can sell in their local licensees, they can sell in their local and LCBO stores, and then maybe in the Beer Store. It's a little expensive—well, it's a lot expensive. So yes, the jobs would be right across the province.

**Mrs. Donna H. Cansfield:** Thank you.

**Mr. John Hay:** Then, of course—

**The Vice-Chair (Mr. Phil McNeely):** The time—

**Mr. John Hay:** Maybe this is too long an answer. But as you heard Irvine say, you could go right across Canada. Maybe I'll let the other fellows comment a bit for a second on this, but there's all of the export potential. Maybe, Irvine, you should just jump in there, or if anybody else wants to.

**The Vice-Chair (Mr. Phil McNeely):** The time is up for you—maybe 20 seconds or so.

**Mr. Irvine Weitzman:** I think there's also an interesting peripheral business that has developed as a result of Ontario craft beer. As an example, Steam Whistle developed a terrific tourism business down at their



brewery, and Mill St. has brew pubs in Ottawa and in the Distillery District that are creating lots of additional jobs. Most of the brewers have created an atmosphere or a pub or a restaurant or something in their individual riding that have created excitement, in addition to just serving beer.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. We'll now go to the official opposition. Mr. Hardeman.

**Mr. Ernie Hardeman:** First of all, just, as they say, a tongue-in-cheek comment: I noticed in the list of your membership that you have absolutely no craft breweries in the Oxford county area. That may explain why I was so interested in your presentation and how it relates to the LCBO.

I think some of you sat through some of the other presentations, and there seems to be a real challenge, particularly in the wine industry, with the number of small wineries and how we get space in the LCBO, in relationship not to our other wineries, but in relationship to imported wines that have, under our agreements—the only outlet in town, shall we say—a right to be on our shelves too. Could you explain to me why it is that the craft beers don't have the same problem as the wineries for getting the LCBO to sell their product?

**Mr. John Hay:** Well, perhaps the industry—I'll start and then I'll ask people to join me. The industry is a little bit younger. It's a little different. There's quite a bit of shelf space in the LCBO. Now, there are a lot of imports there, there's a lot of domestic on the shelf, so there's shelf space there that we can go after. As Sean says, if our product is good enough and it's promoted well enough, we could get some more shelf space.

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Our focus for change is the Beer Store. It's not the LCBO; it's the Beer Store. We seem to do fairly well. We're growing 30% to 50%. North America is considered now the mecca for craft beer, and Ontario is starting to move into a lead role on that. So that helps a lot. If you look at mainstream products across the States and here, they're all going this way—down. Imports are flat; sometimes up or down. It's a wonderful time for craft beer, so we want to do everything we can to ride that wave and take advantage of that.

I'm going to just flip to Cam or Peter maybe just to add a bit.

**Mr. Peter Bulut:** Just to answer the question specifically, just from the outside, I don't have much knowledge in terms of the wine, but my question would be: Are these small, artisanal wineries picking up the phone and sitting down with the LCBO and getting the meeting and saying, "Hey, can I be on your shelf?" or is it just a few guys that are doing that on their behalf? Years ago, I used to think of that too, that the LCBO is such a mammoth structure that it's intimidating for a small business owner to even pick up the phone and call the managing people for that department—wine and spirits—and say, "Hey, can we have a meeting? I own X winery. I want to get my liquid on the shelf." That was a big fear for my family's brewery going through the process. You would take a meeting and then you would sort of dabble.

But if that's your focal point of sales, you've got to ask the question to the individual wineries, "Were you rejected at the door? Did you even go to the door? Did you even pick up the phone?" That would be my comment.

**Mr. Ernie Hardeman:** Can I ask, just before we go further: On the actual shelf space or your connection to the LCBO, is that as a group, or are you in competition to each other as to who's going to sell the craft beer?

**Mr. John Hay:** I'll let Cam start, and then I'll add a bit.

**Mr. Cam Heaps:** It's a little bit of both. Just to back up, I don't know of a manufacturer in the world, large or small, who wouldn't want more shelf space. That's a fact. There's no one in this room who wouldn't take more shelf space if it was offered to them. Part of the reality of manufacturing a consumer good in any industry is going to be trying to get shelf space. The biggest threat we run up to is an industry dominated by two foreign monsters, and one of their very effective strategies is to dominate shelf space, not so much because it represents the market share in any particular store but because it reduces the amount of shelf space any one of us may get.

With regard to the wineries, I think John has a really good point. We're still very young compared to the Ontario winery industry. Hopefully we'll never run into the same problem they're having now, but we also have one other retail channel, which is the Beer Store.

**Mr. Ernie Hardeman:** On the same topic, if I were to go into my local LCBO and look at the section that sells the craft beers, would they be primarily Ontario craft beers or would they have imported craft beers there too?

**Mr. John Hay:** I'll start. There are about 90 stores where there's bulkhead signage, and the bulkhead signage says, "Ontario Craft Beer." Generally speaking, in those areas you will find Ontario craft beer. If that area is not in a cooler, you might find—which is great—some more craft beer in the cooler section. The ideal for us is when the bulkhead signage is in the cooler; that's nirvana. Sometimes, because it's extremely competitive, other manufacturers will try and sneak up and cozy up to our section, because they know there's a lot of action there. So you'll see a lot of that. Everybody has to be vigilant.

Just to answer a bit of your earlier question, we do some things as an association. We do some programs that we purchase with the grant money. We purchase a lot of image programs, which are excellent; shelf extenders, end-of-aisles, that sort of thing. They're all in here. We do those as a group, but then brewers do those on their own. It's very competitive, and we all recognize that. So brewers work on their own, and we do things together.

**Mr. Ernie Hardeman:** Thank you very much. The reason for the questioning is, I believe that, at least as long as I've been here, you're the first group that's come in here to tell us that your success depended on the good graces of the LCBO, so I think that's very important. If it works so well for you, we, as a committee, need to look at how it works with you to make others work better. That's really why I'm asking those questions.



With that, I'll turn it over to my colleague Ms. Munro.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Munro.

**Mrs. Julia Munro:** I just wanted to thank you for coming and echo the sentiments made by my colleague Mr. Hardeman. It's a great way to end the day, to have a group come and say that this organization has been able to do for us what we needed done. I just wanted to thank you for that.

And also, just to pass on the fact that I have had beer from the King Brewery and I think that it's really quite a remarkable thing that does tie in with local food and all of this. I think a lot of people are intrigued by the idea that they can buy locally made beer. I'm sure you don't care what the motive is, but I do think that there is some of that novelty. Then people find out they really like it too.

**Mr. John Hay:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. Time is up. We'll go to the third party and Ms. Taylor.

**Miss Monique Taylor:** Thank you for being here with us today. I have to agree that, yes, you are the most positive bunch that has been here today.

**Mr. John Hay:** It's the beer. It makes us happy.

**Miss Monique Taylor:** It's the bubbles.

That leads me to my question: Out of the 47, there are how many actual breweries here? One, two, three—

**Mr. John Hay:** Five.

**Miss Monique Taylor:** Five. How many of these other ones are just as successful?

**Mr. John Hay:** Pretty much all. Right now, we're in a phase of the growth curve where very few are failing. Now, they will fail eventually. We're seeing a couple turn over in ownership this year—a couple turned over—because a lot of people want to buy in, so they're adding investors. I get a lot of calls about, "Which brewer should I buy?" or "Who's looking for some capital?"

The odd one fails. Walkerville failed. That flipped over, but now it's back again in Windsor. Steelback went down. A couple of others are back and forth, but not a lot.

The ones that are starting up—you can get numbers up into the 50s, if you really count, and there may even be one in your riding that I don't know about. They haven't failed yet because they're just getting started; some of them are really just getting started. But some will fail, for sure.

It's a high success rate right now and we do try and help and mentor as much as we can. It's a very open, sharing group. If you want to go to a brewery and—if you want to go to Peter's brewery and say you're starting up a brewery and you're going to be a competitor right down the street, he'll help you, or his sister will help you, whatever.

There are a lot of women in the industry as well—a lot of women. It's way more than you'd ever think, either brewing or owning or managing or investing.

**Miss Monique Taylor:** Well, we did have one in Hamilton in Lakeport, but she sold us off and now I boycott Labatt.

**Mr. John Hay:** I'll make a comment about that. I can't tell you anyway near what I know, but this is safe to put on the record. If somebody wants a brewery in Lakeport, they're going to have to start from scratch. Forget anything that was there before and start from scratch and do it, and it can be done. It's a great market for craft beer.

**Miss Monique Taylor:** It's my understanding that they won't allow Lakeport—or sorry, Labatt owns it now and will not allow another brewery to happen in that facility. It's quite unfortunate for Hamilton.

Anyway, I'll let my colleague here finish up with some questions.

**Mr. John Hay:** Start from scratch. Write that off and start from scratch.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Forster.

**Ms. Cindy Forster:** How many different types of beers and ales do these 45-plus craft breweries make?

**Mr. John Hay:** I'll hand you out a little style guide. We're at 150 on a regular basis, and you can add another probably 50 to specialty products. There are all sorts of products that are coming out that are one-offs or you can only get at the brewery. Then if you add all those other small brewers that aren't even on there, you'd be way up in the 100s—way up there. It's constantly changing.

Here, you can send those around. That's a documented list of ones that are available on a regular basis, probably all available in the LCBO. If you look at a BlackBerry or an iPhone and you get our application, you can just click on it and it will show you which LCBO store it's available in or which Beer Store, and which licensee it's available in. It's a huge variety.

**Ms. Cindy Forster:** How many listings do you actually get in the LCBO out of this?

**Mr. John Hay:** I'm trying to think of it.

**Mr. Cam Heaps:** It's a very hard question to answer, because the way the retail environment works in the LCBO is, there are certain flagship stores, then there are certain smaller stores. There are also retail partner stores, all of different sizes. Depending on the store you go into, there's a different number of listings amongst our group.

**Ms. Cindy Forster:** And you're satisfied with the space that you're currently getting?

**Mr. Cam Heaps:** Everybody will always want some more retail space, but it's obviously working very well for us.

**Mr. Irvine Weitzman:** In many cases, the smaller breweries could only handle a smaller number of stores, so it's an ideal system to work your way up through: 30 stores at first, and then, as you expand, you get into a larger and larger number of stores.

**Ms. Cindy Forster:** In your document here today you talked about the Beer Store and the fact that—is it the inability to actually see your product in the Beer Store?

**Mr. Irvine Weitzman:** Exactly.

**Ms. Cindy Forster:** Because I've actually only been to my local Beer Stores that are very old stores, and you really can't see anybody's beer because there are 100 cans lined up on the wall and that's a visual experience, so it's not very esthetically pleasing for anybody. Are

there Beer Stores in the province that do it better than others?

**Mr. John Hay:** Yes. There are about 75 self-serve Beer Stores in which the product is displayed, nowhere near as elegantly as it is in the LCBO. The planning—who gets position A on the shelf—is controlled by our competitors, so that has some impact. They're paid by our competitors.

The other 365 stores or so: There are some where they have some shopping experience in the front. Mostly you'll find the owners' brands there. The rest of the stores are essentially behind a wall, so it's a microphone store. You drop off your empties and you put your order in while the guys behind you complain and the beer comes out, so there's no shopping experience. You can only sell beer in that environment if somebody knows your brand. Cam's beer, Irvine's beer, Peter's and Sean's: It would make no sense for them to put their beer behind that wall, because the consumer won't ask for it. They could work in the self-serves, maybe.

**Ms. Cindy Forster:** My last question is: What are the 12 Discovery Packs?

**Mr. John Hay:** A Discovery Pack is a six-pack of beer with six different bottles—sometimes cans—from

different craft breweries. We started that with the LCBO. It took a lot of work to get started, but we love the idea and they love the idea. We're on our 12th one now. We do three a year: holiday season, spring and then summer. We're on our summer one now.

**Ms. Cindy Forster:** That's good. Now the women here can actually go and get a 12-pack of Discovery and not think we're wasting our money.

**Mr. John Hay:** Yes, you can do that, or you can get empties and fill them one at a time, either at the brewery or at the LCBO. You used to be able to do that at the Beer Store, but they cancelled it. It was too successful.

**Ms. Cindy Forster:** Thank you very much.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Mr. Hay, and all the craft brewers who came in and gave their time today. This was extremely interesting.

I thank all the members of the committee and thank those who came, and the members of the LCBO who were here.

We want to be back at the bus in about 15 minutes. We adjourn this meeting until 10 o'clock Wednesday in Trenton. Thank you.

*The committee adjourned at 1644.*



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Agency review:  
Liquor Control Board of Ontario

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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GOVERNMENT AGENCIES

Wednesday 27 June 2012

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
ORGANISMES GOUVERNEMENTAUX

Mercredi 27 juin 2012

*The committee met at 1000 in the Harvest Ballroom, Holiday Inn, Trenton.*

## AGENCY REVIEW:

## LIQUOR CONTROL BOARD OF ONTARIO

**The Vice-Chair (Mr. Phil McNeely):** Can we take our seats, please? Welcome to the meeting of the Standing Committee on Government Agencies. We are continuing our review of the LCBO. We begin today with stakeholder presentations. Each stakeholder has 10 minutes for their presentation, following which each caucus will have 10 minutes in rounds for questions. The questioning will begin with the official opposition, then to the third party and then the government, with the next caucus beginning the questioning of the next stakeholder.

PRINCE EDWARD COUNTY  
WINEGROWERS ASSOCIATION

**The Vice-Chair (Mr. Phil McNeely):** Our first delegation is Prince Edward County Winegrowers Association: Lynn Sullivan, chair. You may begin.

**Ms. Lynn Sullivan:** Good morning. My name is Lynn Sullivan, and I welcome the opportunity to address the legislative committee on government agencies on behalf of the Prince Edward County Winegrowers Association's 26 winery members and six vineyard operators.

As an owner-operator of Rosehall Run vineyards myself, I've benefited from positive relationships with LCBO staff, from the buyers to the stores. Other PEC members have experienced varying levels of interaction with the LCBO to date. This morning, I will try to outline some of their concerns today and ask that you consider some of our suggestions for growth and opportunity.

The Prince Edward county wine industry is the youngest and fastest-growing DVA in Canada. Our unique calcareous soils and cool climate result in wines that are distinctively bright, complex and flavourful. The reputation of the wines we have produced over the last 10 years has been phenomenal, including Huff Estates Winery, whose 2008 Cuvée Peter F. Huff received the inaugural Lieutenant Governor's Award of Excellence in Ontario; Norman Hardie's 2008 Norman Hardie Prince Edward County Chardonnay, one of Wine Spectator critic Matt Kramer's top wines of 2011; the incredibly rich and elegant Closson Chase 2009 South Clos Chardonnay,

a unanimous choice for best of show at the Gold Medal Plates in Montreal; Karlo Estates' Van Alstine Port, chosen by John Szabo and Zoltan Szabo as one of the top 10 cutting-edge wines in the world; Stanners Vineyard's Pinot Gris Cuivré 2010, described by John Szabo, Canada's only master sommelier, as "an unusual style that broadens the spectrum of Ontario wine"; and Rosehall Run's 2009 Pinot Noir Estate, which was the only Canadian recipient of a gold medal at this year's Pinot Noir Shootout in Napa Valley, California.

There are a number of challenges for small wineries in Prince Edward County. Here, the cost of winemaking is comparatively high due to harsh winters, which necessitate extra labour cost to make the vines winter-ready, and our location, which results in higher transportation and fuel costs. Owners do double duty as farmers, wine-makers, sales reps and bookkeepers.

A small percentage of our members produce wine from grape varieties that are not currently permitted to be VQA, such as the Karlo Estates' Van Alstine Port. Even though these grapes are 100% Ontario-grown, they are taxed at the same level as international Canadian blends. This puts an unfair tax burden on some of the smallest producers, who are making uniquely original Canadian wines. All Ontario-grown wine should be treated the same within the VQA and LCBO.

The LCBO system for reporting and taxing wine sales presents many challenges. They include onerous paperwork, semi-annual audits and strict regulations. The monthly spreadsheets provided for reporting our winery retail sales are not compatible with commonly used online winery point-of-sale programs, making them costly and time-consuming. One simple step for the LCBO would be to alleviate some of this administrative burden with simpler reporting that is compatible with modern-day accounting systems.

The cost to retail wine in the LCBO is highly prohibitive. Besides the deep cut in the winery retail price, promotional plans are costly but mandatory additions. On top of that, in order to have an impact at the store level, it is necessary to hire additional sales staff to service the stores. Opportunities such as in-store tastings are limited and the procedures are complicated and time-consuming. Each store has its own criteria for merchandising, and there is little consistency in the retailing of Ontario wines within the stores. It is incumbent upon the LCBO to offer



practical and affordable options for small Ontario producers.

In the past few years the LCBO has made some welcomed changes in retail opportunities. These include the direct delivery program, which allows for smaller orders to be directly delivered to our local LCBO stores. However, the direct delivery program necessitates the hiring of additional sales staff to service these stores on an individual basis. Follow-up paperwork and tracking is, again, complicated and confusing. The average cost for us to ship a case of wine to a store is about \$15. The LCBO reimburses us \$1.41 per case for shipping.

For those wineries with small productions, selling through one of the currently available LCBO retail channels is not currently a viable option. Sales are limited to the farm gate, also known as the winery retail store. Apart from a small local market, sales are limited to the Prince Edward county summer tourist season. Online sales, which allow us to sell direct to our consumers, is a growing and profitable sector of the business. Currently, online sales are limited by provincial borders. With the introduction of Bill C-311, we are hopeful that this opportunity to reach customers in other parts of Canada will materialize without heavy tax burdens and restrictions.

The lack of retail options for small, locally produced wines in Ontario impacts our industry greatly. The fact that consumers in Belleville can shop at a local Wine Rack in their nearest grocery store and not see any wines on the shelves from their own backyard wineries is appalling. The fact that LCBO stores located in Trenton, Picton and Wellington carry only a small percentage of the wonderful wines produced here is abysmal. The fact that Canadians from outside the province of Ontario cannot purchase these award-winning, critically acclaimed Canadian wines must be changed.

Today's Ontario consumers want access to the best local wines, and the LCBO should respond by offering the best of our province's wine regions and talented winemakers. A centrally located Prince Edward county wine store or farmers' market would go a long way to supporting our local businesses and serving both local residents and visitors to the area who may not have the time—or fuel—to visit every winery in the area. We host three wine-tasting festivals in the county each year, with up to 5,000 new faces that approach us with the same question, which is, "Why can't we buy the wine here?"

A recent KPMG study by the Wine Council of Ontario points out that, "Even in the teeth of recessionary times, our VQA wine industry created jobs in manufacturing, construction and tourism, all the while preserving high-value agriculture ... and contributing a set of steadily rising economic benefits to the entire province. Since 2007, few other industries can make the same claim."

It's time for our local government, our provincial government and the LCBO to recognize the contribution that local wineries make to our economy and the potential for unprecedented growth in an age where "local tastes better" is on everybody's lips.

We appreciate the opportunity to share the concerns of the local wine community with you today.

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much for your presentation. We'll go to Ms. Thompson for the first questions.

**Ms. Lisa M. Thompson:** Thank you very much, Mr. McNeely, and thank you so much for being here representing Prince Edward wines.

Before October 6, I was very much involved in the dairy goat industry, so I appreciate the nice blend of good cheeses and wine. That said, I also can appreciate some of the frustrations you must have, because in Bruce county, in my riding, I have Carrick Wines. They grow a wonderful grape that originated in Minnesota. So it has come to my attention, as well: the frustration around having access to Ontario wines and the burden of extra taxes that is experienced.

Given your position with the association, I was wondering if you could delve into the different tax rates, if you will, for non-VQA-approved grapes—wines, if you will—versus the VQA wines that are produced from VQA-approved grapes.

**Ms. Lynn Sullivan:** Sure. My personal experience is with Rosehall Run Vineyards. We grow 100% VQA grapes, which are chardonnay and pinot noir, the accepted vinifera. VQA has a list of grapes, some vinifera and some hybrid, that are qualified to be VQA'd.

Some of the newer hybrids that are more hardy and grow better in Ontario, such as Frontenac, Geisenheim and some newer ones that are emerging, do not qualify for VQA. If your wine is not VQA-ed, you do not get the Ontario VQA rebate through the LCBO system, and when you sell your wine to restaurants or licensees, you have to pay an additional tax to the LCBO. You sell the wine to restaurants as though you were selling it to the LCBO.

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**Ms. Lisa M. Thompson:** And can you tell us the difference in tax rates, if your wine was made from VQA-approved grapes versus one of the newer varieties?

**Ms. Lynn Sullivan:** I'm not 100% sure, but, for example this particular wine is not VQA. It's made from a grape called Frontenac. I was speaking with the producer of this wine yesterday—his name is Richard Karlo—and he told me that if this wine was VQA'd, he could sell it to a restaurant for approximately \$15. Because it's not VQA'd, he sells it to the restaurant for \$7.

**Ms. Lisa M. Thompson:** Okay.

**Mr. Jim McDonell:** For how much, sorry?

**Ms. Lynn Sullivan:** Seven dollars.

**Ms. Lisa M. Thompson:** Can you delve further into the VQA qualification for the grape varieties?

**Ms. Lynn Sullivan:** It's a list, a published list. I don't have the list with me.

**Ms. Lisa M. Thompson:** And who creates the list?

**Ms. Lynn Sullivan:** The VQA, as far as I know.

**Ms. Lisa M. Thompson:** VQA. Okay.

**Ms. Lynn Sullivan:** There are also, within that list, what are called Brix levels. A Brix level is a sugar level



that is reported at the time of harvesting the grape to the Grape Growers of Ontario, so you have to have—for each grape variety, it has to hit a certain level of Brix. If it doesn't hit that level, then it's not VQA-able.

**Ms. Lisa M. Thompson:** Okay. All right. Very good.

What other marketing initiatives is the county pursuing in terms of promoting the local wines? For instance, do your vintners participate in the Eastern Ontario Pavilion at the Royal Winter Fair, things like that?

**Ms. Lynn Sullivan:** Yes. We do a lot of festivals. We do the Royal Winter Fair. The Prince Edward County Winegrowers Association does not have a budget, per se, for marketing. We're more of a co-operative group. So we work together and share information. So if ABC winery is going in this show—it's more that we don't actually have a budget to market the industry ourselves. We work with Taste, which is the tourist development association of Prince Edward county. We work with Taste and we do a terroir festival in the spring and then we do a Taste celebration in the fall. We do a wassail, which is touring around holiday time. We do a lot of work through the LCBO—some of us do, depending on our relationship with the LCBO. We do LCBO taste-and-buys in Ottawa and in Toronto. Each winery, depending on their sophistication, their market reach and their budgets, participates in different ways.

**Ms. Lisa M. Thompson:** Okay. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Milligan.

**Mr. Rob E. Milligan:** I just have a quick question regarding—I had Oak Heights winery up in my neck of the woods, which just actually closed shop because of some of the challenges that Mr. Fraser faced. How do we promote entrepreneurs getting into the wine industry who would like to collaborate with other established wineries to make sure that they're successful? When I spoke to Mr. Fraser, some of the challenges he had in marketing his product were quite similar. Other than access to grocery stores and maybe convenience stores, what other ideas or suggestions would you recommend?

**Ms. Lynn Sullivan:** Well, I think, location, location, location. Obviously Niagara is established as a wine region. Then we have Lake Erie North Shore, and Prince Edward county is an up-and-coming wine region. But even within Prince Edward county we have that challenge. We have a cluster of wineries in one end of Prince Edward county, then we have some that are outside of that cluster. I think in the case of Oak Heights, it was very much that challenge, because they were in Warkworth, which is quite off the beaten path.

I think that because the only place we can sell is through the winery retail—as Joe Public, nobody is going to drive three hours to one winery to taste one wine and buy one bottle of wine. Most people, if they're going to go that route and if they're going to do the winery retail route, then they would like to visit a number of wineries in one place. So definitely co-operation and smart planning—it just makes sense that if you're going to start a winery, you want to be maybe close to a trail or a number of other wineries.

**The Vice-Chair (Mr. Phil McNeely):** You have a minute and a half. Mr. McDonell.

**Mr. Jim McDonell:** Thank you for appearing today. Of course, one of the issues with the LCBO is that they have a limited amount of shelf space. You brought up some issues about local wines, and I think a lot of people like the idea of being able to purchase local wines. Do you see some way or some recommendations that they could have to make more shelf space available to more of the wines? I'm sure there's a lot of different varieties out there, but how do we pick and choose to make it workable for the wine industry?

**Ms. Lynn Sullivan:** I think, first and foremost, the LCBO has to pick and choose based on quality and value and price. That's in the best interests of all consumers.

But as a consumer, I'm disappointed. I'm a Canadian consumer, and when I walk into my local LCBO, I'm just disappointed because I have to search for wines that come from my country. They're in a special section here that says "Ontario." I would imagine that if I walked into a wine store in Portugal, I would see Portuguese wines; if I walked into a wine store in Germany, I would see German wines. Of course, there are other wine regions in the world that make exceptional wine, and they should also be represented, but I just think that, as a Canadian, if you walk into an LCBO, you should see wines from Canada. They should take priority. As long as the quality and the value is there, they should be available to our consumers.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Milligan with one question. There's 20 seconds.

**Mr. Rob E. Milligan:** Real quick, what do you think of a specialty store, just dealing with Canadian or Ontario wines in particular? So aside from the LCBO, maybe a block away or even next door or a part of, but it's a specialty facility just for Canadian wines.

**Ms. Lynn Sullivan:** I used to think that having, for example, a dedicated VQA Prince Edward county wine store in this area was kind of silly, because all the wineries are here. But then I thought, on a given day, if a visitor comes to this area, if they want to get a selection of wines from this area, that involves driving around, so that involves gas, and that involves safety because they're trying things and they're driving. It makes a lot of sense for them to walk into a store and say, "I'll take one of these, one of these, one of these and one of these." It just makes sense.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. The time is up. We'll go to the third party and Ms. Forster.

**Ms. Cindy Forster:** Thank you for being here with us today. Miss Taylor and I took the opportunity of visiting the LCBO when we got here yesterday, actually, and it's a lovely store.

**Ms. Lynn Sullivan:** In Trenton, yes. It's a new one.

**Ms. Cindy Forster:** In Trenton, yes. It's a lovely LCBO. We actually purchased a couple of local wines and tried one of them last night. I think it was Sandbanks, and it was very, very good. The displays in this particular store were really good. The Ontario wines were all at the



front of the store. There were some of the local wines in distinct areas on the ends of the banks of shelving. What kind of percentage of local wines are actually in the LCBOs in this county?

**Ms. Lynn Sullivan:** A very small percentage. Three, maybe four, of the wineries would have general lists in the LCBO. So as far as the wines being produced, I would say maybe 5% are available in the LCBO retail in general list.

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**Ms. Cindy Forster:** Right.

Now, you talked about Bill C-311, and I really wasn't clear: Can you currently actually ship out of province, but it's taxation that is prohibitive, or you can't—

**Ms. Lynn Sullivan:** No, it's currently illegal to ship out of province.

**Ms. Cindy Forster:** Okay. And so what would Bill C-311 mean to the Ontario wine industry?

**Ms. Lynn Sullivan:** Well, I think that's still very much up in the air and that's another issue that the LCBO has to take under consideration. Currently, it's illegal to ship wine across the border, and with Bill C-311, I think a lot of people are interpreting that as physically buying wine in, for example, Ontario, and taking it in your car to Quebec or to Nova Scotia, which is currently illegal. I think that is something that is going to change with Bill C-311, but the fact of shipping wine across the borders is still very much illegal and still very much open to what the individual liquor boards will allow coming in—so importing into Ontario and all the other liquor boards across Canada.

**Ms. Cindy Forster:** Right. So are there other provinces that have the right to ship into other provinces?

**Ms. Lynn Sullivan:** No. Bill C-311 is a federal—

**Ms. Cindy Forster:** It's Canada-wide.

You said that you wanted the LCBO to come up with some kind of practical and affordable solutions for the smaller wineries. What kinds of ideas would you have to make marketing with the LCBO more affordable for the ones that are having difficulty?

**Ms. Lynn Sullivan:** A lot of times we are being asked to pay a lot of money for extra promotions. For example, if I have a \$15 retail bottle of wine, so I might sell this for \$15 in my winery retail store, I would sell that to the LCBO for \$7. That's fine for me, because I understand that obviously the LCBO has costs and marketing, and that makes sense to me. But then I'm also asked to sign on for promotional programs such as limited-time offers, air miles, if I want the wine to be on a certain display, and each one of these costs \$2,000 or \$3,000. So I'm asked to contribute to those things as well to support my brand. If I want space in the fridge, that costs extra money.

I think it's one thing to say, "This is how much money we will pay to put your wine and promote your wine in the LCBO," but then to come back and say, "But you have to do this, this and this on top"—I think they could make those programs a little bit more affordable.

**Ms. Cindy Forster:** So do you think it should be perhaps a percentage, as opposed to a flat amount? Would that assist the small wineries in some way?

**Ms. Lynn Sullivan:** Yes, I think so. Also, again, with the direct delivery program, for example, \$15 for shipping and \$1.41 reimbursed—have you ever tried to send something somewhere for \$1.41? That's like the cost of a stamp.

**Ms. Cindy Forster:** Okay. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Miss Taylor?

**Miss Monique Taylor:** I don't really have any questions. I've been listening to a lot of the comments, and a lot of the things that I had thought about have already been asked, other than if you could clarify for me how many wineries are actually in this area that you would list under Prince Edward county.

**Ms. Lynn Sullivan:** We have 26 winery members, and I believe there are three or four that are not currently members of PECWA, so I would say 30.

**Miss Monique Taylor:** Out of them, you said 5% make the shelves?

**Ms. Lynn Sullivan:** Yes.

**Miss Monique Taylor:** Because really, honestly, I would have to say that there were maybe four different types of local. It was front and centre as soon as we walked in; I have to give them credit for that, because we specifically paid attention when we were there. It was actually an interesting trip to the liquor store.

There wasn't a lot there from the extreme local—right? So the other ones are definitely, obviously, struggling, and you said their only other ways are through the taste—

**Ms. Lynn Sullivan:** Yes. Their only other way is if you go to their winery and purchase the wine.

**Miss Monique Taylor:** That's it for clarification. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Forster.

**Ms. Cindy Forster:** I just want to go back to the VQA piece, when you talked about that one bottle of wine. Is it the Grape Growers that decide what's going to be VQA? Is it a committee? Is there a—

**Ms. Lynn Sullivan:** I honestly don't know the answer to that. I can only say the "the VQA," but I don't know. Sorry.

**Ms. Cindy Forster:** Okay. Thanks.

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much. We're finished with your questions. We'll now go the government and Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you very much. I can answer that question for you: It's actually the Grape Growers association that makes the determination on those parameters; it's not the LCBO. I think that's been a challenge amongst the different players, and it's one of their issues.

I have a couple of questions. You said, I think, that there were 26 vineyards as part of your association. If you go back, I believe it was Peterson that introduced this whole initiative around the grape industry. I think we started with 19, and there are something like 207 winer-



ies, so there's obviously a very healthy industry. Again, with that industry, the challenges are attached to it, but it proves that in fact it is healthy and it is growing. You have to address these issues as they come up, and I think you have identified some of them.

I had a couple of questions for you. One was around the challenge—on one part, one of the great advantages to the wine industry is its tourism, the whole idea of getting to a vineyard and having a tasting; a lot of them have restaurants. So if you just make everything available—everything—in a store, why would I go to the vineyard? So there's a bit of that push and pull, because also very much a part of the industry's money comes from people participating. I appreciate that you've got a real challenge around that.

I wondered about the idea of marketing. As opposed to individual, have you ever considered group marketing, and having that conversation with the LCBO? They have a program called Go-to-Market; I don't know if you've had an opportunity to participate in that. Maybe that's an opportunity as well to have a discussion with them about another approach: two or three or four smaller vineyards coming together to identify some of the issues around your cost. I know that that presents some challenges on the other side, but it might be one approach.

I was interested—you mentioned that there were barriers around the issue of your tasting. Maybe you could explain to me what those barriers are, how you think we could improve that challenge or what are the things that we could change to make that a better experience in your stores. That was one of my questions.

The other question actually had to do with the tourism, and we can talk about that afterwards.

**Ms. Lynn Sullivan:** Do you mean the tasting at the festivals?

**Mrs. Donna H. Cansfield:** You identified in your comments that there was a challenge around the tasting, when people came to your store for tastings.

**Ms. Lynn Sullivan:** That's when they come to the festivals that we hold at the Crystal Palace.

**Mrs. Donna H. Cansfield:** So not in your store; it's the others. Can you just share with me—you said it's complicated. I want to know how it was complicated and how we could improve this for you.

**Ms. Lynn Sullivan:** All wineries, whether or not they are selling through the LCBO retail, we're all still part of the LCBO system. We all report to the LCBO our winery retail sales. Every month, we have to fill out a three-part spreadsheet. Basically, it lists every one of your wines and how much sold through winery retail, how much sold through licensees, which are restaurants, and how much sold through—and at the same time there is a POS—point-of-sale—system that we all use that keeps track of these things. It's developed in Niagara. It's called POSsimplicity, and it's developed specifically for Canadian wineries. So the question we always have is, "Why can't we export the information that we've done for our monthly sales onto the LCBO reporting sheets?"

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The answer we always get is that the LCBO reporting sheets are—the programmers of the POS system cannot obtain copies of these LCBO reporting sheets. That involves printing them out, transcribing them—it's hard to explain how time-consuming it is, but it basically takes my staff two full days out of every month, and we're a small winery. We just do 5,000 cases a year. So it's time-consuming—

**Mrs. Donna H. Cansfield:** You have two sets of books, in other words, is what you're saying.

**Ms. Lynn Sullivan:** Yes.

**Mrs. Donna H. Cansfield:** Point-of-sale was developed in Niagara by whom?

**Ms. Lynn Sullivan:** It's called POSsimplicity.

**Mrs. Donna H. Cansfield:** Who is it for?

**Ms. Lynn Sullivan:** For the wineries in Niagara.

**Mrs. Donna H. Cansfield:** But you use it.

**Ms. Lynn Sullivan:** Yes. A lot of the wineries do use that, both in Niagara and in Prince Edward county.

**Mrs. Donna H. Cansfield:** And then the LCBO has their own reporting system as well, is what you're saying.

**Ms. Lynn Sullivan:** Yes.

**Mrs. Donna H. Cansfield:** Why do you report to the Niagara vineyards?

**Ms. Lynn Sullivan:** No; we just use a similar POS system.

**Mrs. Donna H. Cansfield:** Okay; you just use the system. It sounds like an operational thing that should be solvable.

**Ms. Lynn Sullivan:** Yes.

**Mrs. Donna H. Cansfield:** Because I agree with you: Pushing too much paper around is—

**Ms. Lynn Sullivan:** There's a lot of paper-pushing, yes.

**Mrs. Donna H. Cansfield:** Have you thought about sitting down with the LCBO and looking at how to deal with those barriers?

**Ms. Lynn Sullivan:** No, but I will. I was hoping this might be the beginning of that.

**Mrs. Donna H. Cansfield:** Yes. It makes some sense, if you're pushing a lot of paper around, to be able to find a solution that works—I don't know what it is, and I don't even know if there is one, to be honest with you. I just think you should have the conversation. It just makes a lot of sense, if that could reduce your costs. Thank you very much.

**Ms. Lynn Sullivan:** You're welcome.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Jaczek.

**Ms. Helena Jaczek:** I was actually going to pick up exactly where Donna ended up. Thank you for your presentation. It was very clear. You have a number of suggestions. Picking up on what Donna just asked you—"Have you sat down with the LCBO to go through some of these suggestions?"—when we were in Niagara on Monday, we heard from the Ontario Craft Brewers, and they talked about how they engaged the LCBO in a conversation, some nine years ago, with a strategic plan with all sorts of goals and priorities. They have had really



successful growth in their market share from that time. They were small; they were few in number. I was very much going to say that I think there's a great opportunity here in Prince Edward county to bring people together to have that conversation, because, as Donna says, some of these things sound like they could be relatively simple to potentially solve, or at least really engage so everyone understands your point of view and you understand the LCBO's.

I was just wanting to follow up a little bit on—the LCBO has presented to us, and they talk about the Small Winery Support, the LCBO's Go-to-Market and the Vintages: Wines to Watch programs. I'm wondering how those have worked for you.

**Ms. Lynn Sullivan:** Go-to-Market is the same program that I was referring to as direct delivery. So, yes, it has worked very well. Especially for wineries that have smaller quantities, it allows us to ship directly to the stores. Yes, it has been a welcome change for us. At Rosehall Run, we've been able to transition. We started with Go-to-Market and then we transitioned into a general list. Yes, that has been very effective.

**Ms. Helena Jaczek:** And the Wines to Watch? Is that one you know about?

**Ms. Lynn Sullivan:** Yes. Wines to Watch is a promotional program, and that's something that you pay for. That comes into the category of what I was referring to as—you pay for the LCBO to purchase your wine and then, "Would you like to be a part of our Wines to Watch program?" and then that's another X amount of dollars.

**Ms. Helena Jaczek:** So the issue for you there is the actual cost to you to engage in both those programs.

**Ms. Lynn Sullivan:** Yes.

**Ms. Helena Jaczek:** Okay. Thank you. I understand.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, and thank you, Ms. Sullivan, for being here.

#### ONTARIO PUBLIC SERVICE EMPLOYEES UNION

**The Vice-Chair (Mr. Phil McNeely):** The second presentation is the Ontario Public Service Employees Union, OPSEU: Warren "Smokey" Thomas, president.

You have 10 minutes for your presentation. Just say your name for the purposes of Hansard.

**Mr. Smokey Thomas:** Good morning. My name is Smokey Thomas. I'm president of the Ontario Public Service Employees Union.

OPSEU represents more than 130,000 workers in the Ontario public service and in the broader public sector, including community colleges, health professionals in our hospitals, services for our children and youth, and many other workplaces. We are also very proud to represent more than 6,000 employees of the Liquor Control Board of Ontario, who work in more than 600 retail outlets, at distribution centres and inside head office.

Let me start by welcoming this opportunity to address the all-party legislative committee. It has been several years since the committee on government agencies has

held hearings on the LCBO, and I look forward to sharing with you the thoughts of our liquor board employees on this valuable crown agency and the socially responsible service our members deliver on behalf of all people of Ontario.

Joining me here today are two people who have a keen interest in the LCBO in terms of labour relations and in terms of its business operations: on my left, Sister Denise Davis, chair of OPSEU's liquor board employees division; and Russ Christianson, president of Rhythm Communications, which is a business consulting firm that works with our LCBO division.

We hear a lot these days about austerity and about how our provincial government insists revenue streams have dried up. It seems a day doesn't go by when the Premier or his Minister of Finance will tell us the cupboard is bare. If this is true—and I must say I have considerable doubt about this—how is it that the Ontario government finds itself giving away millions of dollars annually in potential revenues instead of keeping it to pay for health care, education and other public services? I'm talking specifically about the LCBO and its agency store program.

Most people in Ontario know that the LCBO is a very successful business. In its most recent fiscal year, 2010-11, sales hit \$4.6 billion and it paid a dividend of \$1.6 billion to the people of Ontario. This money, together with the HST, excise taxes and payments to local municipalities, amounted to \$2.3 billion per year for the public coffers. Why would we be giving away any of that revenue to private businesses when the LCBO demonstrates so well that it runs a very efficient and profitable operation as a publicly owned and operated enterprise? I am here today to tell you that the LCBO, in these days of so-called austerity and revenue shortfalls, could substantially increase its dividend to the provincial treasury by reviewing its agency store program and converting some of the highest-earning stores to real LCBO retail outlets in a host of communities. A full review of agency store contracts must be taken immediately so that unrecovered revenues from agency store sales are returned to the citizens of Ontario.

What most people don't know is that successive Conservative and Liberal governments have been privatizing alcohol sales through the back door since 1996, the year that the Mike Harris government abandoned its bid to fully privatize the LCBO. Instead, it expanded the LCBO's sleepy agency store program from communities in rural and remote northern Ontario to communities in southern Ontario, many of which are situated in close proximity to existing government-owned stores.

Here are the facts: In 1995, there were 82 small private retailers in northern Ontario selling LCBO-contracted wine, liquor and beer. These stores were supplied by the LCBO, and the average sales per store was about \$200,000 annually. At this level of sales, it made no business sense to open real LCBO outlets. Today, there are about the same number of agency stores in



northern Ontario—79—and their annual sales have basically kept pace with inflation.

It's a far different story in southern Ontario. Since 1996, 141 new private agency stores have opened. These stores have average annual sales of \$1.3 million, and their total sales have grown an average of 517% per annum since 1996. Today, the total sales of privately owned and operated agency stores exceeds \$200 million per year, and 90% of these sales are in southern Ontario. For a full explanation of these numbers, I would direct your attention to the report contained in our submission that you have in front of you. Our business consultant, Russ Christianson, would be pleased to answer any questions after my presentation.

We believe there are about 100 privately owned and operated agency stores in southern Ontario that could be brought into the public system. Each of these stores has annual sales of more than \$700,000, easily enough for a real LCBO store. As their contracts with the LCBO expire, the LCBO could simply open an LCBO retail outlet.

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In 2009, these 100 privately owned and operated agency stores had combined sales of \$161 million. If the LCBO brought these retail sales back to their own stand-alone outlets, the people of Ontario could benefit from an additional cash dividend of \$340 million to \$370 million over the next decade.

The numbers are staggering. From 2003 to 2007 alone, the LCBO permitted close to \$1 billion in retail alcohol sales to be sold through private agency stores. This is nothing more than privatization through the back door, and successive Conservative and Liberal governments have gone along by giving this public money to private businesses.

But let's put politics aside and concentrate strictly on the business case. The LCBO could realize a 60% return on its investment by repatriating these 100 privately owned and operated agency stores. You don't need to be a Bay Street banker to know that a 60% return on investment is exceptional for any business. Even Don Drummond—probably the only thing I agree with him on—in his report to the McGuinty government this year said the LCBO could be doing a better job of expanding its retail operations in order to further maximize revenues. I respectfully suggest the LCBO could do worse than review its agency store program with an eye to repatriating the most profitable stores. If the politicians would give the LCBO management a bit more leeway, they could take the stores back and expand and, without encouraging alcoholism, certainly make a lot more money.

If we only repatriated the top 20 private agency stores over the next 10 years, the LCBO would realize a 120% return on investment. The total investment to transform these 20 agency stores into real LCBO stores would amount to about \$9 million, an amount easily financed through LCBO profits.

We have met several times in recent years with senior LCBO management to discuss the agency store program.

They have looked at our numbers and they do not dispute our findings. The number crunching shows without a doubt that the most profitable private agency stores could be brought into the LCBO fold, with the resulting dividends going straight into the public treasury.

It astounds me that the LCBO—and, by extension, the government of Ontario—continues to deliberately turn its back on repatriating the most profitable agency stores. If the LCBO insists they are not prepared to repatriate the most profitable agency stores, then it's time for their political masters at Queen's Park to direct the LCBO to act on this issue.

The provincial government would have us believe it has exhausted every revenue stream and there are no more dollars available. Isn't that why the people of Ontario face cutbacks in public services on a scale never before witnessed in our province? Ironically, it's the Minister of Finance who has political oversight of the LCBO. This is the same Minister of Finance who tells us the cupboard is empty and that austerity is the new order of the day. Well, the cupboard's not empty and there are hundreds of millions of dollars that could be recovered by replacing the most profitable agency stores with real LCBO stores.

The time for excuses is over and it's time to act.

Sister.

**Ms. Denise Davis:** Good morning. Thank you very much for—

**The Vice-Chair (Mr. Phil McNeely):** State your name.

**Ms. Denise Davis:** Denise Davis. Thank you very much for the opportunity to speak to you all today. I want to provide a few points regarding the service we provide and the people who provide this service.

As we know, alcohol is a dangerous substance, and we all know the consequences of its abuse. As a public agency, the LCBO has a mandate to sell alcohol responsibly by blocking sales to underaged teens by checking ID of anyone under 25 years of age. It is also mandated to monitor and refuse a sale to intoxicated customers and third-party purchasers. Each year, LCBO employees refuse to serve thousands of people who are underage or intoxicated and contribute to keeping our communities safe. LCBO retail staff challenge more than 2.6 million customers who appear to be under age or intoxicated, and refuse service to 155,000 customers, 82% for reasons of age.

We are supported by MADD and the Ontario Association of Chiefs of Police. LCBO staff are fully trained via the hard-target—

**The Vice-Chair (Mr. Phil McNeely):** Could you wrap up in the next 30 seconds, please?

**Ms. Denise Davis:** Okay—the hard-target educational program to monitor who is buying alcohol and refuse those who should not be served. It is a mandatory requirement of their job, and they do not overlook this responsibility just to make a sale. It's not personal; it's the law.



As for education and knowledge of the LCBO staff, it is mandatory for all customer service reps to complete a hard-target program, which relates to violence prevention and robbery prevention.

Each customer service rep is required to take the three product knowledge courses so they understand what the products are, where the grapes are grown, the regions and where these products come from, and how products are distilled.

They also are required to take the "Check 25" and "It's Not Personal. It's the Law" course. It educates employees on how to deal with customers who may challenge the ID check, and when dealing with customers who are under the influence.

Also, we have product consultants. These product consultants specialize in wine, beer and spirit studies and attend product knowledge courses—

**The Vice-Chair (Mr. Phil McNeely):** Could you wrap up in the next 30 seconds, please?

**Ms. Denise Davis:** Oh, yes—so that they can share the knowledge with the customers.

We also understand that there's a requirement for more convenience, which is why we propose that the hours of the retail stores should have their hours extended to offer further convenience to our customers.

In conclusion, more publicly owned LCBOs mean greater selection, knowledgeable and professional staff and customer service, and a commitment to keep alcohol out of the hands of underaged youth and intoxicated persons through the enforcement of responsible sales.

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much. We'll go to the third party and Ms. Forster.

**Ms. Cindy Forster:** Thank you, and thanks very much for being here with us today and for sharing your presentation.

When I was in Niagara Falls on whatever day that was—I'm lost now; Monday—I actually talked, after the LCBO had made their presentation, about going into LCBOs and how informed and knowledgeable the staff are compared to 10 years ago. They're always there to suggest something to you, to try something or to "pair this wine with this kind of meal." I think people find that very helpful going into our local stores.

You talked about the agency stores, and I didn't realize there were actually that many agency stores across the province. Are you aware of what kind of training or education that people working in, say, Avondale in Vineland—in Vineland, there's an Avondale store that actually has a liquor outlet. Are you aware of any training that those staff actually have to have?

**Ms. Denise Davis:** I really can't comment on that. That might be a question for the LCBO later this afternoon. I don't work with any of the agency store personnel whatsoever.

**Ms. Cindy Forster:** So none of the agency store personnel actually are part of your union? None of them are unionized? No.

What is your ratio of full time to part time in the LCBO stores?

**Ms. Denise Davis:** We have about 60% of approximately 6,800 people who are casual. Our casual workforce is 60%.

**Ms. Cindy Forster:** And all of them also have to have training, I understand, before they can actually be on the floor?

**Ms. Denise Davis:** It's mandatory.

**Ms. Cindy Forster:** It's mandatory. You talked about the amounts of money that the government could actually bring back into their coffers. Could you expand a little bit more on that issue?

**Mr. Smokey Thomas:** By just repatriating the agency stores, the money, the profit that would go to the mom-and-pop operations, if you will, would come back into the LCBO. In the presentation, there are significant dollars available, but I'll let Russ speak to that a bit more. He has done all the research.

**Mr. Russ Christianson:** Yes. In the report, it clearly shows that, over the course of the next 10 years—with very conservative forecasts that the LCBO agrees with, and it's all based on good, real, solid numbers—the province of Ontario and the people of Ontario could benefit from anywhere between \$340 million in incremental or new dividends to \$370 million. So that's a significant amount of money.

**Mr. Smokey Thomas:** That's a few hospitals, if you wanted to build them, or a couple of highways.

**Ms. Cindy Forster:** Yes, that could be my new hospital in southern Niagara, right?

You raised the issue of third party purchasers. Can you tell me a little bit more about what that meant?

**Ms. Denise Davis:** That could be people purchasing product for somebody maybe waiting outside of the store—

**Ms. Cindy Forster:** That you know is inebriated.

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**Ms. Denise Davis:** Yes.

**Ms. Cindy Forster:** You get to know your customers.

**Ms. Denise Davis:** Or people who are underage who have asked somebody to come in and purchase that product for them.

**Mr. Smokey Thomas:** Staff get to know who to cut off. They are very observant.

**Ms. Cindy Forster:** Right.

**Mr. Smokey Thomas:** I tried that when I was a teenager a few times, but we got caught. That was a long, long time ago, mind you.

**Ms. Cindy Forster:** Now, LCBO employees are not paid outrageous wages. I understand that the average wage is around 20 bucks an hour.

**Ms. Denise Davis:** Yes.

**Mr. Smokey Thomas:** Mr. Olsson is here, so he can pay close attention to that for bargaining next year.

**Ms. Cindy Forster:** Where perhaps employees working in agency stores, such as Avondale, maybe, are making minimum wage or a little better?

**Mr. Smokey Thomas:** Most likely minimum wage, and no benefits.



**Ms. Cindy Forster:** So certainly not wages that can actually support a family. So it's actually a good thing to have more LCBO stores so that we can actually put some of the 600,000 people that are out of work in this province back to work.

**Ms. Denise Davis:** Good jobs in the community, yes.

**Mr. Smokey Thomas:** If I might add, though, the LCBO is held as a model for retailing and warehousing around the world. I've actually toured the warehouse out in your area. It's a technological marvel. I was just blown away by how efficient it is and how they can handle such volumes of product. It really is a model of how to do things properly. I think that if management was given a bit more leeway, they could actually really ramp up the profits, as I say, without encouraging alcoholism, and certainly give all customers and society a really good service.

**Ms. Cindy Forster:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Miss Taylor.

**Miss Monique Taylor:** Thank you. I don't have any specific questions. I think the biggest thing that we've been hearing around the table is Ontario wines not being able to make it to the shelves and not enough shelf space; that seems to be everybody's biggest concern around this table in the last two days. So you would definitely be supportive of smaller winery stores, as long as they were under the LCBO, and that would be something that you could bring under your scope also. Have those discussions been happening with you at all?

**Mr. Smokey Thomas:** We'd be happy to engage in conversations and discussions with the employer and the government, because it would be two people to make that decision—it would be a government decision, actually, at the end of the day.

**Miss Monique Taylor:** Of course.

**Mr. Smokey Thomas:** I've talked to Denise and Russ, and all the division executive promote Ontario wines and have a fairly robust promotional system. But I agree with what Ms. Cansfield said: that the wine growers should actually sit with the LCBO and have those conversations about how we might be able to promote more Ontario wines and Canadian wines.

I found the LCBO management—and again, we're going into bargaining next year, so—but they're actually pretty reasonable to sit and talk to, and pretty open to new ideas. Part of the problem with the LCBO is, they have to go to Queen's Park to make any major decisions, so it ends up being a political decision rather than a business decision. Again, if they were able to have a little bit more latitude, I think that you could really see that they'd satisfy all the concerns—Tim Hudak's concerns over Niagara. I think all those could be satisfied if the LCBO was given the latitude to actually go out and find ways to satisfy those concerns.

**Miss Monique Taylor:** Okay. I think that's it, Chair. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Forster, again.

**Ms. Cindy Forster:** We heard in a number of the LCBO stores that we've been in recently that there's this challenge between price points of the wine as opposed to either the quality or the variety of wines in the stores. Do you hear that from your fellow members that work in the LCBOs, that generally people are looking for a lower price as opposed to more variety of Ontario wines, or has there ever been a survey? Do the employees participate in any survey with their customers as to whether or not there's more support for more Ontario wines, the percentage of Ontario wines on the shelves?

**Ms. Denise Davis:** I haven't heard of a survey being done. I do know that they have the opportunity to taste different wines and to experience what all the different wines are—the quality and different things like that. I really don't know about a survey of the price versus the selection.

**Ms. Cindy Forster:** Okay. Thank you.

**Miss Monique Taylor:** Do we have any time left?

**The Vice-Chair (Mr. Phil McNeely):** Thirty seconds.

**Miss Monique Taylor:** If you find time just to speak briefly about the survey that was done with convenience stores—any comments?

**Mr. Smokey Thomas:** Take it with a grain of salt. They've got an end that they want to achieve. I can make numbers say just about anything I want, too. On the question of people being able to purchase underage and all that, I'd really dispute all those findings. Again, they're very direct to self-interest.

**Miss Monique Taylor:** Just so you know, we agree with you. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. We'll go to the government and Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you very much. First of all, I want to say I think you have awesome employees. I go to the one, obviously, where I live, but I have been to others, and the employees are great. A couple of times I've had the opportunity to go in and participate when we've been doing some work around energy efficiency or the bags or whatever, and they've been wonderful to work with; really fine folks.

There are a couple of things. I guess I want to share with you first of all that, under our government, we've never opened an agency store. The last time agency stores were opened was in 2003 under the Harris government. I think that's a really important piece to get out there.

Secondly, I think that there's no question that all governments, regardless, have requested the LCBO to pick up their bottom line. That's a normal business practice, and they've done a pretty good job over the years in doing that, and, I think in a responsible fashion.

I wanted to question you a little bit about the dollar figures that you have in here around the agency stores, because part of the challenge is, from what I understand—and I stand to be corrected, but I think currently the LCBO has about 22% of all beer sales, and then of course the rest go to the Beer Store. In the agency stores, they don't supply the beer; that comes from the Beer



Store, and as you know, that's privately owned. So you'd have to subtract the beer component from those gross sales, because it would be beer, wine and spirits, I guess. So when you do that, you don't separate that out. Have you got some figures that separate out—I guess maybe you can't get them because they're privately owned. But you could do some surmising, I suspect, from what's going on. So one of the questions I have is about that.

The other question that I had was to do with where you see the opportunities. Have you identified—there are some obvious challenges; there always are, in relationships, but in actual operational issues, aside from your labour issues, have you seen some areas where you could say, "These are things we can improve upon. These are things that we see where there could be some conversations," that kind of thing?

**Mr. Smokey Thomas:** I'll answer that question now. I'll let Russ do the technical one. On that, I would have to say that from my observation on the outside looking in, and having toured a lot of stores, a lot of warehouses—it's an extremely efficient operation and probably one of the most modern warehousing and distribution networks in the world, and other industries could certainly take a lesson from it.

I'll give you one example. When you're unloading the trucks, they're very long, and it's very physically demanding labour. The LCBO, with their engineering staff—I don't know how they worked it out, but anyway they developed a machine that goes in and really reduces the number of injuries or decreases the time it takes to unload a tractor-trailer by this platform moving up and down, and it goes forward, forward, forward as the product goes out and we put it on the line. These are the kinds of innovations that they designed themselves, manufactured and own the rights to. I don't know, from my perspective, where you could make it any more efficient, because on the retail end, it's part of the experience, right? So you could be like the Beer Store, where you walk in and say, "Give me 24 Blue," or whatever, and get nothing. On the retail end, I think it's difficult to say how you could make it cheaper; I don't think you could.

The one thing that we're very much in favour of, though, is longer hours, to become more modern that way, in today's 24/7 world. We think the longer hours in many, many areas would be of benefit. Again, it wouldn't promote alcoholism; it would just provide service to the public that's needed. Some stores close too early, and they could stay open longer.

**Mrs. Donna H. Cansfield:** Just on that alone, I think there's merit to what you're saying. Where would you think? Cottage country, some particular areas or—

**Mr. Smokey Thomas:** Yes. It might not stay open till 9 o'clock on a Friday night in the dead of winter, but certainly in the summertime you'd stay open maybe till 10, especially for commuters who drive up and that kind of stuff. So lots of areas would—Denise has identified—

**Mrs. Donna H. Cansfield:** Actually, that's a really good suggestion, because you're right: What happens is,

you end up purchasing at home and taking with you. Because often, if you go to the liquor store, you'll also go to the store, and so it would encourage more local purchasing. It's not a bad idea.

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**Mr. Smokey Thomas:** That's a particular phenomenon, though. I drive through Verona, Ontario, to go to my cottage, and the IGA store has the agency store. Now, it's a very popular family. You'd never attack that because the guy supports the churches and everything else. But he put other businesses in town out of business, because all—not all, but a lot go in to get some beer on the way up to the cottage.

One of the reasons about the agency stores—they would be located stand-alone or whatever; it might not give somebody in a community that really significant advantage, which would bankrupt the other grocery store in town. So there are always these sorts of trade-offs, but the longer hours and buying local is a good advantage, particularly in cottage country.

**Interjection:** Supply and demand.

**Ms. Denise Davis:** I'd just like to add one point. Also is the consistency of the store hours. You could have many different stores in the area, with all different opening and closing hours. I just think our customers need to get to know what time we're opening and closing and not arrive there and this one's not open but that other one is. I just think that consistency of the hours they are open would be helpful also.

**Mr. Smokey Thomas:** And the way to answer the beer question is socialized beer sales.

**Mrs. Donna H. Cansfield:** Well done.

**Mr. Russ Christianson:** I'd like to just draw people's attention to page 40 in the report. It has two PowerPoint slides that detail the number of agency stores that have been opened. From 1996 to 2003, there were 75 new agency stores opened, and from 2003 to 2009, which are the most recent figures that we have in this report, there were 65. So in fact—

*Interjection.*

**Mr. Russ Christianson:** No, it's an increase, an actual increase in stores, to 140 agency stores. So there were agency stores open during the Liberal government reign.

**Mrs. Donna H. Cansfield:** I'll double-check that.

**Mr. Russ Christianson:** In terms of the beer sales, yes, you're correct, Ms. Cansfield, about the 60% of the sales that the agency stores, particularly in southern Ontario, where there's 90% of the sales—60% of the sales are beer. Now, the northern agency stores were always what are called combination stores, for those agency stores where all different forms of wine, alcohol, spirits and beer were sold and it was all distributed by the LCBO.

We're saying that instead of having the privatization of these stores in southern Ontario, why wouldn't we open actual LCBO stores in those communities to provide that better service, the better selection and, importantly, keep the profits and the dividends for the people of



Ontario rather than going to private industry? That's the point.

**Mr. Smokey Thomas:** And it's not in our presentation, but one of the things we've kicked around a little bit and I've often talked to politicians of all three stripes about is that you have an amazingly good distribution system, retail system. It's a good experience when you go in to shop around, and there are more things that go into the LCBO store that would be typically provided by the government—or services, right? So you've got Service-Ontario kiosks. There are none of those in a liquor store. So there are things you could put in. Why not have some of those—like, at least open the door to look at those possibilities to expand what you do in the stores for people as a one-stop-shopping kind of experience.

**Mrs. Donna H. Cansfield:** So I did get some clarification. In fact, the stores that opened opened in the time frame but were contracted under the Harris government to be opened and we had to open them. So they were predetermined but had to be opened—just for clarification.

**Mr. Russ Christianson:** Yes, there was a plan, I agree—

**Mrs. Donna H. Cansfield:** Yes, right.

**Mr. Russ Christianson:** —to open 150 stores, and 140 were opened.

**Mrs. Donna H. Cansfield:** Right.

**Mr. Russ Christianson:** However, the contracts are for five-year periods and they are competitively bid in those communities.

**Mrs. Donna H. Cansfield:** Right, but they were still commitments that—it's just a follow-through. I'm just trying to ensure that it wasn't our commitment that was made; it was a previous commitment. And that's fine. It's just semantics one way or the other.

**The Vice-Chair (Mr. Phil McNeely):** The time is used up. We'll go to the official opposition and Mr. McDonell.

**Mr. Jim McDonell:** Thank you. One thing we're experiencing in rural areas is trying to keep some of our local stores open. I go with the example of a store in Finch that opened up, in the last few years, its liquor sales. If they move to Cornwall, then you've got to travel 20 kilometres to go to Cornwall—or more like 20 miles, I guess. There needs to be something to keep these stores—if you go around most of the small villages, there are no stores left. Do you see some operation or somehow that you could work through these? These are, I guess, some of your agency stores, but they're really meant about trying to put service back out in the country. There's a green appeal to it. It stops people from having to drive long distances to get their product, plus it also enables these stores to survive that would probably be gone today.

**Mr. Smokey Thomas:** There have never been any exceptions to small rural areas having small stores that I'm aware of. I take your point about rural Ontario dying. I think the LCBO would be one of many things that you could talk about in smaller communities, where you might put it back there, as a government, in the smaller

communities. The downsizing that has occurred and the consolidation of government services over the last 20 years has really hurt smaller communities. Even out of a village of 800 or 900 people, if you lose five good government jobs, that's quite a blow to a small community. I take your point.

We would certainly welcome the opportunity to have a conversation with any or all three parties, individually or all at once, about a review of rural Ontario and what we might be able to chip in here and help out to bring them back up, to help them survive rather than die.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Milligan.

**Mr. Rob E. Milligan:** Yes, sort of running with what Jim touched on: Growing up in rural Ontario, I have an appreciation for providing those conveniences. When you're in Roseneath and you're like, "Now I have to drive all the way to Hastings, Campbellford or Cobourg," which is a 25-minute drive, to pick up a case of beer or whatever, it's not environmentally or economically feasible to not have that facility open.

That being said, I have had good relations with the LCBO in my local communities in the sense that I do appreciate the convenience that they provide, and the service. They're very accommodating at ordering a special bottle of wine or something to that effect for their local customers when you request it—

**Interjection:** Scotch.

**Mr. Rob E. Milligan:** Or scotch, yes.

But I think, too, in rural Ontario in particular, the LCBO offers well-paying jobs, even though they're part-time jobs, to the local economy, so I value that as well. For rural Ontario, I think the LCBO—we have to be careful when we move forward on that. I just wanted to put that on the record.

**Mr. Smokey Thomas:** We would agree.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you very much. I too come from rural Ontario: Huron-Bruce, southwestern Ontario. I just would like confirmation. The data that you shared in your speaking notes: Is it provided by Rhythm Communications?

**Mr. Smokey Thomas:** Yes.

**Mr. Russ Christianson:** It's really provided by the LCBO itself, the actual numbers. They gave us the numbers through a freedom-of-information request.

**Ms. Lisa M. Thompson:** Okay; very good. Is it possible to drill down and for you to provide additional information? I come from a village of 800 people, and I'd be shocked if there were sales over \$700,000. I would like to see—

**Mr. Russ Christianson:** We have a spreadsheet that's available that has the list of all the agency stores and the gross sales and net sales that they have, and the community that they're located in. We could definitely provide that.

**Ms. Lisa M. Thompson:** I'd appreciate that. Thank you.



**The Vice-Chair (Mr. Phil McNeely):** Thank you for coming in here on behalf of OPSEU.

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### MOTHERS AGAINST DRUNK DRIVING CANADA

**The Vice-Chair (Mr. Phil McNeely):** We'll go on to our next presentation now, Mothers Against Drunk Driving Canada: Andrew Murie, chief executive officer. You have 10 minutes for your presentation. If you could start off with your name, please.

**Mr. Andrew Murie:** Good morning, everyone. I'm Andrew Murie. I'm the chief executive officer for Mothers Against Drunk Driving Canada. I'm also the co-chair of Canada's national alcohol strategy advisory committee. We work on 41 recommendations as a consensus group on reducing alcohol-related harms. I've also given out a presentation which is a background paper, which has been distributed. A lot of my comments today are from that report. So I'll start.

Alcohol is no ordinary commodity and should not be treated as one. Alcohol is linked with more than 65 medical conditions. It is a contributing factor in injuries, impairments and deaths caused by illness, impaired driving, homicides, suicides, falls, drownings, assaults, fires, and other adverse events that threaten public safety and community well-being.

Based on the 2002 data, the estimated annual cost in Canada for health care directly related to alcohol is \$3.3 billion. The total indirect cost associated with alcohol was \$14.6 billion, compared to \$17 billion for tobacco and \$8.2 billion for illicit drugs.

From 1996 to 2009, overall alcohol per capita sales in Canada have risen by 13%. This increase was greater in provinces where government control systems have been eroded.

About one in five Canadians exceeds the recommended low-risk drinking guidelines, and 32% of Canadians experienced problems in the past year due to drinking by others.

In the next part of my presentation, I'm going to talk about three things. These are all evidence-based interventions where it has been well researched that if you follow the recommendations in these areas, it makes a major impact on reducing harms by alcohol. They are alcohol pricing—basically taxes; controlling availability of alcohol, so the number of locations and hours of service; and the fact of government-controlled resales and marketing, so the aspect of the LCBO.

Under alcohol pricing, an effective tax policy on alcohol leads to lower consumption and reductions in trauma, social problems and chronic disease associated with alcohol use. Pricing of alcohol products needs to be structured so that prices increase as the percentage of alcohol increases. Alcohol pricing needs to be indexed to the cost of living. In fact, Finnish researchers reported that large reductions in alcohol prices in 2004 were fol-

lowed by increases in alcohol-related mortality: 16% among men and 31% among women.

Privatization of alcohol sales does not necessarily lead to lower alcohol prices. A York University study showed that privatization in Alberta has resulted in higher product prices, smaller product selection, higher warehousing and distribution costs, and higher social costs. Former Alberta Premier Ralph Klein conceded that the Alberta Liquor Control Board privatization was counterproductive.

As of June 1, 2012, Washington state has moved to a privatized system of alcohol sales. Alcohol markups have gone from 52% under a controlled state to 72% in the private sector. For a 750-millilitre distilled product, this price increase is about \$10 per product.

The perception by the public is that a privatized retail liquor system leads to lower alcohol prices. That's what's expected. In fact, there was a recent headline in the *Seattle Times* that said "Buyer's Remorse Over End of State Stores as Liquor Prices Rise." The issue in Washington state is that the public is very unhappy with this change, even though they voted for it. The actual outcomes that they thought it would lead to were much lower liquor prices.

This change has also had a major impact on the hospitality sector because they either absorb the cost increase or raise prices. To give you a bit of an international perspective, Britain and Scotland are in the midst of putting a minimum price structure on alcohol. Prime Minister David Cameron has called the excessive use of alcohol in Britain a national scandal. The proposed minimum pricing in Britain and Scotland will lead to 3,500 fewer crimes, 8,600 less alcohol-related hospital admissions, and 500 fewer deaths in Scotland.

The LCBO has the model program, not only in Canada, but it's the envy of most democratic countries that face the high cost of alcohol abuse. The LCBO has a pricing structure that ties alcohol pricing increases to a three-year average of the CPI index.

Moving on to the controlling availability of alcohol, a high increase in the number of outlets selling alcohol, as well as extended hours and days of sales, are associated with high-risk drinking and other alcohol-related problems. For example, the number of liquor stores in Calgary increased from 23 in 1995 to 300 in 2003. Police reports in Calgary document a rise in impaired driving charges and family violence cases in the areas of the city with the highest density of liquor stores. Studies in Western Australia and Iceland have found an increase in alcohol-related problems, such as violence and impaired driving, with longer hours of sale. Extended hours of alcohol sales in the UK have caused law enforcement concerns.

Private liquor stores in Canada are open longer than provincially controlled stores. Private liquor stores' primary motive is profit, and these stores lose sight of the public health and control obligations.

As the population grows, a balanced approach of liquor store expansion is required. If you look over the last



six years, the LCBO has grown from 601 stores to 623 corporate stores, which clearly shows that they are balancing customer expectations with the social responsibility mandate.

CAMH, the Centre for Addiction and Mental Health, showed that 92% of respondents in Ontario consider it somewhat convenient or very convenient to get to the nearest liquor or beer store. In 2011, the vast majority of Ontario municipalities supported MADD Canada, the Centre for Addiction and Mental Health and the Ontario Public Health Association not to have beer and wine sold in convenience stores, as proposed by the Ontario Convenience Stores Association.

The last part is government-controlled retail sales marketing. Only 29% of Canadians agree that provincial governments should close all government-run liquor stores and allow private stores to sell alcohol.

From 2002 to 2008, the number of private liquor stores in BC grew from 786 locations to 1,294. In the same time frame, the number of government stores went from 217 to 199. In 2008, the percentage of government liquor stores requesting the mandatory two pieces of identification in British Columbia was 77.5%, while the private liquor stores' percentage of age identification was 35.9%.

Alcohol-related car crashes in BC increased substantially after private liquor stores were expanded in 2002. In the United States, states with stronger alcohol controls by government have lower alcohol-related traffic death rates. Ontario has the lowest impairment-related crash deaths in Canada, at 2.03 deaths per 100,000 population. Alberta's rate is almost 175% higher, at 5.7 deaths per 100,000 population.

In conclusion, the LCBO strikes a very fair and effective balance between consumer access selection and service and the need to manage alcohol consumption and minimize alcohol-related harms and costs. The LCBO regulates the number of stores and hours. The LCBO controls the access to alcohol for minors and intoxicated patrons by highly skilled, trained staff. The LCBO has an effective pricing strategy that reduces social harm caused by alcohol.

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I just want to make a comment on LCBO staff. I've been CEO of MADD Canada for 15 years and so I've had a relationship with the LCBO over that 15-year period. It's in their DNA; this is not just a job. This is something that they take very, very—great concern to do their job. If they get an intoxicated patron in there, they're the first one, if they see them going towards a car, to call 911 and report them to police. They take it very seriously. There are a number of refusals: the identification of minors. They help get money donated to charitable causes in their community. They're part of this community. They make a fundamental difference. I can tell you frankly, you're not going to get this in any type of privatized system.

I have three recommendations for you as a committee. The first one is: Do not allow any further privatization of

the alcohol retail system in Ontario. Two: Allow the LCBO to develop retail strategies for Ontario wines and craft brewers within their current structure. I think if you look at it, and you've probably seen these numbers, VQA wines in Ontario have had a 100% increase in sales in the last six years; for craft brewers, it's over 400%. If I'm a business person, that's pretty good growth that's not normal within that six-year period, so the LCBO is doing a really good job for those two product lines in their store.

**The Vice-Chair (Mr. Phil McNeely):** Time is up, if you could just wrap up, sir.

**Mr. Andrew Murie:** I have one more recommendation. I timed this to be right on 10 minutes.

The last one is to reduce taxes on low-alcohol products to encourage their development and availability. I think there's a real need for that in Canada and elsewhere, and that's something the committee should seriously consider. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. We'll go to the government and Ms. Jaczek.

**Ms. Helena Jaczek:** Thank you very much. I certainly agree with you about the LCBO having social responsibility in their DNA. I think we were very impressed on Monday that that's the *raison d'être*, essentially, for the LCBO. As a physician and formerly a medical officer of health, I couldn't agree with you more in terms of the way the LCBO has been exemplary in terms of ID-ing individuals age-wise and in terms of the refusals, and we've seen how the educational program that they provide to employees has been working and includes seasonal workers and so on. In contrast, the experience with tobacco related to convenience stores, of course, was not a happy one with the tobacco control act.

Having said that, we also heard from OPSEU just now that they're in favour, actually, of extending hours in terms of accessibility and so on. I was wondering how you would react to that. Have you had any conversations regarding hours of operation of LCBO stores with the LCBO?

**Mr. Andrew Murie:** The evidence is there, so there needs to be that balance. If there's a dramatic increase in LCBO store hours, you're going to see some negative impacts with that. With everything, you have to look at consumer patterns and various things. I'll leave that up to the LCBO. They're very skilled at looking at customer patterns: when people come in, the variance in their various communities. One of the things about being all across Ontario and having structured hours is that consumers come to depend on that, so you also have to balance customer expectations with that.

**Ms. Helena Jaczek:** We had a presentation from CAMH as well on Monday, which of course detailed all the harms of alcohol. You've told us that the LCBO is doing a great job within the Canadian context. Are there any other issues that you would like to see the LCBO introduce that have worked in other jurisdictions internationally—any other further suggestions to reduce harm?



**Mr. Andrew Murie:** Sure. I think one of the big things—if you look at the Australian market, they have numerous low-alcohol products that are available that fit into the low-risk-drinking guidelines. Basically, the Australian government has a tax structure that allows those products to go on. When people are consuming alcohol or purchasing alcohol—the uptake in those products has increased tremendously. In Canada, we don't really have a pricing structure, so if a manufacturer of alcohol products brings in a low-alcohol product, there's no incentive for them, so they have to basically market that. In saying that, there have been a number of products that have come on the market, especially in the beer area, that fit that, but there should be some benefits, and I think there are benefits. Also, if you go to a licensed establishment and you want to have a couple of drinks and be well below the thresholds for driving and those types of things at the 0.05% level, you could do that with a 2% beer more so than you can do with a standard drink at 5%.

**The Chair (Mr. Phil McNeely):** Mr. Leal.

**Mr. Jeff Leal:** Thanks very much, Andrew, for your presentation. I share with you the work that MADD has been doing over many, many years with the high schools in my riding of Peterborough. It goes without saying that I have a great relationship—a professional relationship—with the LCBO in my riding of Peterborough.

But in my wayward youth, sir, prior to the Jays joining Major League Baseball, many of us would travel from Peterborough to Montreal to see the Expos play. Of course, they have small-l liberal distribution ways for alcohol in the province of Quebec. You mentioned British Columbia; what's the data from Quebec in terms of injuries and deaths related to alcohol-related incidents?

**Mr. Andrew Murie:** Well, you'll notice on some of our report cards that we do for the provinces that there's a big piece about Quebec and their data. We feel that Quebec purposely underreports its data—the way they measure it, the way they define an alcohol-related death, the way they define it on a police report—so it's not an apples-to-apples comparison. Quebec does look good if you look at the alcohol-related numbers in any of the publications by Transport Canada or the Canadian Council of Motor Transport Administrators, but everybody that looks at it puts an asterisk beside it and says, "View with caution." So it's a problem, and Quebec refuses to come into the norm that Ontario and other provinces report. It's a very difficult province to look at their data and be able to report accurately what has been happening with their alcohol-related deaths.

**Mr. Jeff Leal:** If I could just follow up, why—I mean, policing is policing is policing. We have pretty much standard reports across the country. They use CPIC as a standard. What's the reason for underreporting?

**Mr. Andrew Murie:** Well, it gets reported into the SAAQ, which is their public insurer. They have 45 causes of death on their police reports, and they can only tick off two. So, immediately, when you're at the scene and looking for those types of things—the obvious ones get picked up, but a lot of ones don't.

They also, for example, define a death by alcohol within seven days, where the rest of the provinces use 30 days. So my feeling in Quebec is, if you don't count them, they don't appear.

**Mr. Jeff Leal:** Just one last question: One of the challenges I have—farmers in my riding of Peterborough, of course, are in the fruit wine business. They've been asking for many years for access to farmers' markets and distribution—that perspective. What's your view on that in terms of—

**Mr. Andrew Murie:** Sure. We have met and talked to the fruit wine growers, and again, I see it as a slippery slope. There are no controls at farmers' markets. Selling things off the backs of trucks is not the way alcohol should be sold or retailed. I think they just need, like all the other vendors, whether it be VQA wines or craft brewers—they have to work with the LCBO in a system that works for them and their business. Everybody can't do their own thing when it comes to alcohol. This is not milk and orange juice we're selling here.

**Mr. Jeff Leal:** Thanks very much.

**The Chair (Mr. Phil McNeely):** Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Just very quickly, you made some analysis, and the surveys are here vis-à-vis the challenges in other jurisdictions with drinking and driving and the issue around privatization—I'm sure you heard; you spoke about agency stores. But our agency stores come under the same rigour in terms of identification and requirements for training as through the LCBO. I think that's important to know, that in Ontario—and Andrew, you and I have done this for a few years together—the numbers have decreased significantly. That's due to the good work done by everybody involved in the system, including those agency stores. I just want to make sure that that got on the record. But the other is that I guess of all the programs—

**Mr. Andrew Murie:** Thank you for that. It's a really important thing that most of the private stores that are agency stores don't fall under that same mandate. That's a really important recognition, so thank you for that.

**Mrs. Donna H. Cansfield:** Thank you. The other is that of all the programs, what's the best one you've got with the LCBO?

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**Mr. Andrew Murie:** Oh, by far it's our school assembly program. Each year we do a re-creation of an impaired driving, with actual victims' stories. It is now to the point, with LCBO support and its customer support, that this coming year, every high school in Ontario can have the presentation free of charge.

**Mrs. Donna H. Cansfield:** Wonderful.

**Mr. Andrew Murie:** That means that 900,000 high school students will see that show, at a cost of \$1.25 per high school student.

Not only in Canada, but when we do our work, people are so jealous that we have that program. Each year in Canada we have 1.5 million high school students we show that presentation to. Nobody else has that kind of reach with high school students.



**Mrs. Donna H. Cansfield:** That's awesome. Thanks, Andrew.

**Mr. Andrew Murie:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much. We'll go to the official opposition and Mr. McDonell.

**Mr. Jim McDonell:** Thank you for appearing today. I have to commend your group on a lot of work, the results we've seen over the last, I'm going to say, 30 years with the amount of drinking and driving, especially with young people.

One issue we have that I've seen locally, having children come through that age just recently, is the lack of events or things to do. Last year, a high school—what we've seen is we've just driven things underground where children go out and they rent a hotel room or something and the whole class shows up, or, particularly in our area, they just stop off in a field somewhere and you get a few hundred kids out in the middle of a field, especially after prom night. In our day, at least you were allowed into a licensed establishment, and if you misbehaved, well, you were excluded or put out. And the children today are much better. I find there's very little, if any, drinking and driving. They're very responsible.

Is there some solution to that? As mayor, every year I used to sit there as property owners complained about 500 students showing up at a field somewhere, and picking up glass and—but there's no option. That's the problem. Is there anything wrong about, I guess, concentrating a little bit more on responsible drinking? When those things happen, there's anything but responsible drinking, I would have to think.

**Mr. Andrew Murie:** Are you talking specifically about prom or are you talking specifically about activities of—

**Mr. Jim McDonell:** Well, prom, but in talking to some parents who live in the bigger cities, this goes on every weekend type of thing: a smaller base of 30 or 40 people, but it's the same issue. Kids have nothing or no place to go. Even if they want to be responsible, they're forced outside. Is there a solution to this? It seems to be something that runs contrary to that social responsibility.

**Mr. Andrew Murie:** I'll talk about two things. In a very narrow vein with that, one of the things that we've been doing around prom is making sure—as you know, the traditional prom is alcohol-free because it's run by the schools, and then there's the traditional after-party, which is not alcohol-free, speaking of the circumstances that you were talking about.

In BC, they've changed that. They now have a formal prom; they go to an after-prom, which is alcohol- and drug-free, which is basically run by the school and the parents. It's a fun night, so that all the graduates participate in it and they learn what I think is a cultural change.

Two things—and the parents learn it; the kids learn it. You don't have to celebrate every major event in your life with alcohol, and graduation is one of those things where you'd rather remember what a great time you had with your friends than your head in a toilet; and also the

risks that come with that, because it's not just about drinking and driving. Alcohol intoxication leads to all kinds of other things that cause harms not only to young people but other people as well.

So there is an ability. It lies with parents. Just because you did it doesn't mean you need to allow that tradition to carry on with your children, whether you're in a rural or an urban setting. So there are things—and there's well-documented research that the parents have the greatest influence on their young people. But they have to be engaged, they have to work with it and they have to change that conversation. So there are opportunities there.

There need to be programs. We certainly have been—we piloted one of these grads in Ontario this year for the very first time, at Philip Pocock school in Mississauga. We had over 75% of the grad class turn up, and there was no alcohol involved. There are opportunities there, but there's only so much that police can do if parents aren't going to be supportive of it.

**Mr. Jim McDonell:** Yes, just a follow-up to that: My neighbour was somebody that tried to allow something like that to happen a number of years ago. Maybe contrary to what people think, the vast majority of students who were there weren't intoxicated. They were there because they wanted a place to go, and I'm sure everybody had a drink or two.

But somebody that co-chaired, or the chair of the local health unit, was from Alberta and talked about what they did—the parents organized something similar, but there was alcohol at it. It was a controlled event, and that as well teaches responsibility—and was wondering why the local community wouldn't do that. Of course, in Ontario, it's illegal to do that, to allow anybody under the age of 19 to have alcohol. It just seems to be that age, 19, where people are graduating, that's an issue.

I'm very supportive of teaching—not abusive drinking, but responsible drinking. That again allows it in a controlled area where there are parents, where there's some security around the whole thing.

It always bothers me each spring to see each high school gather literally groups of 500 students out in a field somewhere. Because nobody can be legally responsible, everybody's happy with it. But the problems with that, I think, are far greater than trying to control it.

**The Vice-Chair (Mr. Phil McNeely):** There's no response?

Mr. Milligan.

**Mr. Rob E. Milligan:** We've heard from the previous presenter, OPSEU, that one of their concerns was actual training of staff, i.e., in convenience stores, who provide or sell alcohol, wine, spirits. If we were to ensure that those convenience store operators had the training, and obviously I would think—I would hope—that that's in place now, but I don't know if that really is.

You made the point, and I'm not saying I'm agreeing or whatever, but the point you made was the fact that if you privatized the sale of alcohol, then the price in Alberta went up. If you increase, then—logically, if, say,



a case of beer now is \$55, then teens in particular would be virtually eliminated from the equation of going in and purchasing alcohol, right?

But that is a grave concern for myself as well, because being a former high school teacher, alcohol is something obviously that's purchased and used, but drugs then become a major element because drugs are a lot cheaper. Illegal substance abuse is a lot cheaper than alcohol consumption. I'm just wondering if, going back to the privatization question, would that not then be a better way to go if the price of alcohol is going to go up?

**Mr. Andrew Murie:** Absolutely not. I mean, you can get higher prices through your current structure with the LCBO. You don't need privatization.

What I was talking about basically is that there's a public expectation that if you privatize, prices will drop dramatically because they see the system to be able to deliver it much cheaper. In fact, it's not. It is actually way more expensive. The privatization system, people favour it because they think they're going to get lower prices. But at the same time, if you look at the data, they like the LCBO, they like the convenience, and they like all those things about it. So there's no benefit for privatization of sales.

Every country, every province, every place that's done it has done it under this allure that something's going to be better. At the end of the day, nothing's better, and they regret going away from their structured system—bottom line.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** We certainly appreciate the work that MADD does. We have strong organizations in my riding of Huron-Bruce. Recognizing you're the executive officer for MADD Canada, what type of operating budget do you have on an annual basis?

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**Mr. Andrew Murie:** For Ontario?

**Ms. Lisa M. Thompson:** For Ontario.

**Mr. Andrew Murie:** We don't break it down by Ontario. Nationally, this year, I think—our fiscal year ends at the end of June—it'll be somewhere between \$7 million and \$8 million in revenues, and probably similar expense. We usually try to run within 10% of revenues, either a surplus or a deficit.

**Ms. Lisa M. Thompson:** Okay, very good. Does MADD receive any funding from LCBO?

**Mr. Andrew Murie:** We don't receive any money directly from LCBO. They do a campaign in which their customers donate to MADD and the various sick children's hospitals. As I was saying earlier, those funds go only to the high school assembly show program. Every dollar that goes into that is funded, and then we provide that information back to the LCBO so they know the money that was given through their customers and how it's spent.

**Ms. Lisa M. Thompson:** I'm very well aware of the red ribbon campaign. How many dollars does that represent?

**Mr. Andrew Murie:** This year it'll be slightly over \$1.2 million, so there's been a great increase in it. I think the great increase has come because people know where that money goes in their community. Their kids come home from high school, and that's a dinnertime conversation, that the MADD show came today. The fact now that every high school in Ontario can have it has a major impact. As I said, that program ends up costing \$1.25 per student.

**Ms. Lisa M. Thompson:** Thank you.

**Mr. Andrew Murie:** You're welcome.

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much. Time is up. We'll go to the third party. Ms. Forster.

**Ms. Cindy Forster:** Thank you very much for being here today and for the great work that MADD does across Canada.

What kind of work do you actually do—I heard about your program that you do in the high schools. Do you do any specific work with parents? Because the sense that I get still today, in 2012, is that there's still this divide between alcohol and drugs, that parents aren't accepting of drug use, illegal drug use or otherwise, but that alcohol use is maybe okay. I know, having been a nurse and worked in intensive care, the number of times I've had people ventilated overnight from alcohol intoxication. I've even worked—it was actually in Alberta—on a couple of occasions after prom night, and saw young people pass away from acute alcohol intoxication related to pancreatitis. But still, in talking to parents, friends of mine who are parents or maybe grandparents, they still think that alcohol's okay. Is MADD doing education specifically targeted at parents?

**Mr. Andrew Murie:** Well, we are, and we have a lot of tools available for parents on alcohol liability issues and things like that. The trouble with parents is, it's not like the teenagers, where you can go into a school and gather them all in a room and have their undivided attention for an hour. If we could do that, we'd have a tremendous impact on parents.

In fact, we are looking at a program now, as part of graduated licensing, working with the various provinces to actually have a requirement that parents and teens receive information about the risks of driving, impaired driving, alcohol use and all those types of things as part of the licensing system. We're just developing that program now. We've had conversations with the Ministry of Transportation in Ontario here and also with some other provinces, so now we're just trying to develop the funding model to actually put that program in place.

We think it'll make a fundamental difference, because I absolutely agree with you 100%; we need to engage parents on a whole bunch of issues, but we need access to them. There's only so many ways in the system, and one of them is the driver's licence, and the vast majority of kids get driver's licences. It's one of the few interventions that government and parents have where you can make a difference.



**Ms. Cindy Forster:** Thanks. You also spoke about some comparative data between provinces where privatization has occurred and provinces where it has not, and checking for underage proof and that it's much lower in agencies where it's privatized. Do you have any similar data on the LCBO versus Brewers Retail here in Ontario?

**Mr. Andrew Murie:** The trouble with Brewers Retail is, they are a private system, so they don't have that public accountability. As government members, you should make them have that ability so that we know how well they do—and they don't have all those mystery shoppers. There are all kinds of ways to do compliance. If you're going to have a private monopoly, there should be some expectations that they perform at the same level as the LCBO.

**Ms. Cindy Forster:** The last thing: I just wanted to get on the record—Ms. Jaczek, when she started to ask her question, said that OPSEU's position was that we should actually extend hours. That really wasn't what I heard. What I heard was that they would like more consistent hours and that, perhaps, in the summers in cottage country or tourist areas, the hours be extended so that when people are travelling from southern Ontario to Muskoka, for example, the LCBO might be open till 10 so they could pick up a case of beer. I didn't hear that they wanted, generally speaking, hours extended.

**The Vice-Chair (Mr. Phil McNeely):** Miss Taylor.

**Miss Monique Taylor:** Good morning. Thank you for being here with us today, and thank you for all of the great work that your organization does, because I know it makes a difference. We definitely need to have your presence to make sure that our youth are educated, knowing that they're putting themselves at risk not just drinking, but drinking and putting themselves behind the wheel. So congratulations, and thank you for that.

I know the elephant in the room is privatization, and of course we're against that. I would like to just give you a little bit of extra time, and maybe you can comment further on: Do you find that where they have these private agencies within, say, the variety stores in the rural areas—do you have statistics saying that the accidents are higher in those areas? Do you find that there's more trouble in those areas compared to where we don't have those privatized stores?

**Mr. Andrew Murie:** Yes. I think if you look in the report and at some of the data I presented today, if you look at privatization in Alberta and BC, you see all those negative harms. Whether it be impaired driving, family violence or hospital admissions, they're all there. The further you privatize, the worse those harms become.

It is really clear, from a pure, public health point of view, that if you make a decision to privatize the system, then you're responsible for the harms that come with it. Now it's even more important, because in fairness to Alberta, which was the first one to do it, I don't think there was as much evidence. What BC has done—and I think the caution that has been kind of the anti-privatization is, now we have some really clear data and evidence, and governments that make those types of changes

are doing it for all the wrong reasons. They're certainly not supporting the communities and the safety of communities.

**Miss Monique Taylor:** We want consumers to be able to purchase our local wines, and everybody should be able to enjoy them, and everybody should be able to make a good living. There are problems with rural areas and with small wineries having the space. I've heard a lot about farmers' markets, and I've been hearing a lot about smaller stores. Part of what's coming out of this committee, hopefully, is a way to make that better in the future so that all people can have the ability to sell their products.

If we could get the LCBO, the union and everybody together to say that at the farmers' market, we are controlling sold wines of local only—do you know what I mean? I'm not saying to have huge wine stores, but if we could get those local products at the farmers' market and have all of the proper agencies and tools there, would you agree to something like that? Would you consider being at the table to even discuss those kinds of things?

**Mr. Andrew Murie:** How the LCBO does its business is up to the government and the LCBO. We certainly can make recommendations. I know that they look at all those things and they have a mandate from government, especially in a province like Ontario where we do have craft breweries, we do have fruit wines and we do have wine growers. I think what they're trying to do is three things: They're trying to balance those business interests of those private enterprises, do the social balance, and then you also put as a government a demand on returning a dividend to the government and an expectation for budgetary things. I think they do a really good job, but you can't have one system of those three favoured over the others. If you put the LCBO in charge, they'll balance those portfolios. Quite frankly, at the end of the day, you're not going to please every fruit farmer and you're not going to please every winery, but you're keeping 11 million people in our province safe.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. Time is up.

**Miss Monique Taylor:** Thank you very much.

**Mr. Andrew Murie:** You're welcome.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Mr. Murie, for the excellent message on behalf of Mothers Against Drunk Driving.

We'll now recess for noon. The people coming from the Spirits Canada/Association of Canadian Distillers that were scheduled for 2:20 will now be here at 1 o'clock, so we'll be back in this room at 1 o'clock for that.

Mr. McDonell.

**Mr. Jim McDonell:** Thank you, Chair. I know one of the wineries dropped out, but we have the opportunity to get a cider company this afternoon at 2 to replace that one, if the committee would agree to that.

**The Vice-Chair (Mr. Phil McNeely):** Is there agreement?

**Mr. Jim McDonell:** It gives us an idea to hear from the cider industry.



**Mrs. Donna H. Cansfield:** Sure. We're here.

**The Vice-Chair (Mr. Phil McNeely):** All agreed? Yes.

We're recessed until 1 o'clock.

*The committee recessed from 1152 to 1300.*

**The Vice-Chair (Mr. Phil McNeely):** Welcome back. We're now continuing with the stakeholder presentations. Each stakeholder has 10 minutes for their presentation, following which each caucus will have 10 minutes in rounds for questions. Questioning this afternoon will begin with the official opposition, then the third party and then the government, the next caucus beginning the questioning of the next stakeholder.

## SPIRITS CANADA

### ASSOCIATION OF CANADIAN DISTILLERS

**The Vice-Chair (Mr. Phil McNeely):** We have a change: It's Spirits Canada/Association of Canadian Distillers who will make the first presentation. They have been moved to 1 o'clock. Could they come forward, please.

You can start your 10 minutes and state your name for the purposes of Hansard.

**Mr. Jan Westcott:** Thank you, Mr. Chairman. My name is Jan Westcott. I'm the CEO of Spirits Canada/Association of Canadian Distillers. On behalf of the Ontario distilled spirits manufacturers, we welcome the opportunity to appear before you today here in Trenton. I've asked my colleague C.J. Helie, who is my executive vice-president, to join me so that we can best address any questions that the committee members have after these remarks.

Spirits Canada is the only national trade association representing Canadian and Ontario distilled spirits manufacturers, who as a group are the largest contributors annually to the LCBO's net income. In an economic impact study commissioned by OMAFRA in 2010, it was estimated that in addition to in excess of \$1.1 billion in commodity and sales tax revenues that are generated for the Ontario treasury on account of the sale of spirits, the local manufacturing of spirits contributes nearly \$900 million to the gross domestic provincial income of the province.

I also notice that while various organizations representing Ontario grape growers have appeared before this committee, Ontario's corn and cereal farmers are not represented. With the Chair's indulgence, I will also say a few words on behalf of these local farmers so essential to the quality of Ontario-made spirits.

We also recognize that, primarily for ideological reasons, there are a number of groups who would prefer that the provincial government get out of the retail alcohol business, hence the appearance of various proposals from time to time for alcohol sales through convenience stores, farmers' markets or other independent private stores. I want to be crystal clear: Ontario's spirits manufacturers are not one of these groups. We believe

the LCBO provides Ontario with the right mix of a modern retail environment for beverage alcohol balanced with an appropriate social responsibility mandate.

Even excluding the provincial portion of the harmonized sales tax, the sale of beverage alcohol last year raised a little over \$2.2 billion in direct commodity tax revenues or their equivalents for the treasury. The LCBO's net dividend represented 75% of this return. This compares with the LCBO contribution accounting for less than 60% in the year 2000.

The question of how well the LCBO is performing its mandate is one that we would like to address today. We know, for example, that the LCBO's net dividend to the provincial treasury has doubled from \$800 million in the year 2000 to over \$1.65 billion this year in 2012. Was this performance inferior, just okay, or was it outstanding? I think the challenge is to find reasonable benchmarks for measuring the LCBO's economic performance. One might look at other Canadian liquor boards, boards without the scale of the LCBO; or one might look at other general retailers, retailers that are operating in a highly competitive environment and, increasingly these days, a challenging environment. Instead, today we propose to compare the LCBO's commercial performance vis-à-vis the dissimilar performance of Ontario's other alcohol retailing assets.

Presumably because the government owns and operates the LCBO itself, many tend to forget that Ontario has, in fact, three major alcohol assets:

- (1) the LCBO, which we all know;
- (2) the licences to operate private beer stores that are issued to Molson Coors, AB InBev and Sapporo, the three large brewers; and
- (3) private off-site winery stores—not the ones at the wineries. These are the off-site winery stores that are largely issued to three of the larger companies operating wineries in the province.

In private business, we all recognize that a company's true value today is often tied to intellectual property rights, rights like brands, trademarks, copyrights, and, in the case of spirits like Canadian whisky, our signature product, geographical indications. For governments, true value is similarly also found in its own intangible assets; specifically of interest to this committee's work, the right to sell alcohol.

A good commonsense test to see if this principle holds true for beverage alcohol is to ask yourself a simple question: If a future provincial government did decide to remove itself from the direct sale of alcohol, how much of the \$1.6 billion net return from the LCBO would it expect to keep under any new sales model? If you answered "a minimum of \$1.6 billion," then you have confirmed that the value is linked to the right to sell alcohol, not to the bricks and mortar.

As I mentioned, since 2000, the LCBO's net return to the treasury has doubled to \$1.6 billion. Over the same period, the total return to the province from the Beer Store and private wine stores combined has increased from \$539 million to \$555 million, or about 3%. The



LCBO operates about 620 stores; the Beer Store, 440 stores; and the off-site, private winery stores—not the ones at the wineries; these are the ones away from wineries—nearly 300. So three retail chains, each operating in the same geographic market, under identical market conditions, selling to similar customers, yet one has a 100% improvement in its return to the province and the others have a 3% return to the province.

Let's take a little bit of a closer look. The LCBO's net return of \$1.6 billion was realized on net sales of \$4.7 billion, which produced a net return ratio of about 35% of sales. The treasury's similar return from the Beer Store and the winery retail stores is equal to about 23% of net sales. So even after accounting for the cost of directly operating the LCBO, the net return from its in-province benchmark is more than 10 points higher, 35%, versus 25% for the other retail systems.

I would also be remiss in not mentioning that even this 23%, while down from the 25% return of about a decade ago, is an improvement from the 19% of a few years ago, as the government has begun to index beer's basic tax by imposing—and also imposed a 10% tax on cellared-in-Canada wines. The latter, of course, is redirected back to the VQA wine producers, so it's a little bit of a shell game.

In summary, it's clear that the LCBO's economic performance over the last decade has far surpassed the performance of the other government alcohol licence holders in this province.

Of course, such returns are not without some barbs. When a government asks for more from a liquor board, it is a natural but unfortunate reality that the very strong inclination is to squeeze suppliers even further. Over the years, the LCBO has employed its monopoly position in spirits to extract more from its suppliers, whether in terms of higher promotional fees, merchandising program costs and mandated market spending. As the only domestic supplier group exclusively sold through the LCBO, Ontario's spirits have shouldered the bulk of such burdens. And unlike some other supplier groups, such program costs are not subsidized by the LCBO or through other ministry support programs.

As an aside, we're somewhat conflicted on the issue of government subsidies to certain of our wine colleagues. On the one hand, such programs help fund their sales and marketing activities in Ontario to our detriment; on the other, subsidies tend to dull the sharp edge of competition, ensuring a less-than-effective competitor on the much larger global market, where only the strongest prosper.

In my opening, I briefly mentioned the role of Ontario's farmers in the marketing and the making of distilled spirits. The value of our local cereal grain purchases is every bit as important as the Ontario grape wine crop. We buy the highest-quality corn and other cereals and pay a premium to get the best materials. In the words of Barry Senft, the CEO of the Grain Farmers of Ontario, which represents about 28,000 corn, wheat and soybean farmers, who produce approximately

180,000 tonnes of premium corn and cereal grains that supply our industry, "Great Canadian whisky starts with the highest-quality Ontario corn."

Thank you very much. I'd be happy to answer your questions.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. We will go to the official opposition. Mr. McDonell.

**Mr. Jim McDonell:** Thank you for coming out today. It's always good to hear the perspective from the producers of the province.

Any specific recommendations or priorities that you would see that would help the industry?

**Mr. Jan Westcott:** We're all producing alcohol. If I had three or four glasses in front of me—one with a typical cocktail made with an ounce and a half of spirits; a bottle of beer, Blue or Canadian, 5%; a glass of table wine, let's say, Ontario table wine, domestic; and imported table wine—the interesting thing about those is that those are all standard drinks. Those are what, in fact—in most bars today, you'd be lucky to get an ounce and a half of spirits in a drink; it's pretty much an ounce. Those are all standard drinks. The most interesting thing about those is that they all contain exactly the same amount of alcohol, to the decimal point. So that's what the consumer drinks today.

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We're not seeing, these days, too many people drinking—other than, I guess, beer—products out of the bottle; people are drinking these as individual drinks. We've grown up a great deal. Yet, the tax burdens—withstanding they all contain exactly the same amount of alcohol—on the different streams of how the consumer deals with that product are vastly different. In our case, they are dramatically higher than the people that we compete directly with.

One of the challenges that the industry faces in Canada is attracting investment. Like the wine industry, like the beer industry, we're part of a global business. When our guys sit at the international table of our global companies, if the returns in Canada are a lot less than they are elsewhere—and they are a lot less; our gross margins here are about 20% versus an average of about 30% in most of the comparator control states in the United States. In the US they have control states, much like Ontario and many provinces in Canada. The returns available to the spirits business in those states are about 30%. So this disproportionate taxation of our products, as well as access to the consumer, makes it increasingly difficult.

It's not something that's going to get fixed overnight, but the world has changed. People drink everything today; it's mostly determined by where you are, what the circumstances are and what's available. We need to start addressing this if we want to continue to have a spirits business in this country.

We're fortunate in that Canada, notwithstanding that we're a relatively small country, has one of the four recognized whiskies in the world. Canadian whisky, along with Scotch, Irish and bourbon, is one of the



world's recognized whiskies. My partner is going to blanch a little bit, but the fact is, we're still the largest-selling whisky in the largest beverage alcohol market in the world, the United States. So we're pretty good at what we do.

I think we need to start addressing these dissimilarities in how products are treated going forward, because increasingly what is happening is that government policy is intruding into the marketplace.

**Mr. Jim McDonell:** Just one other quick question. We tied some discussion, just how we rank in Ontario versus other markets around—the States. You alluded a little bit to that. Just what share, or how do we compare with some of our major competing states or provinces?

**Mr. Jan Westcott:** In what sense?

**Mr. Jim McDonell:** As far as production.

**Mr. Jan Westcott:** There's no secret: Ontario is the heart and, really, the home of the spirits business in Canada. I don't have the exact numbers, but we're something between 65% and 70% of all of the activity that takes place in Canada. This is really the bulk of where it is. Our business is one where we export about 70% of what we make.

We're a pretty simple business: We buy grain from farmers; we convert it into alcohol; we age it, then we blend it and package it, and then we export it. When you look at exports, it's a much higher number. It's closer to 75% of all of the things that leave the country as well the rest of Canada that come from Ontario.

**The Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you very much. Jan—thank you very much for you both being here, by the way, I appreciate that very much. Earlier today, we had a deputation from OPSEU. A clear message from them was their angst about agency stores. Do you have a sense of sales for your Canadian spirits from LCBO versus agency stores? Do you break it down like that?

**Mr. Jan Westcott:** I'm going to ask C.J. to—

**Mr. C.J. Helie:** Yes, we do. Agency stores, on total, would be less than 10% of our overall Ontario sales.

**Ms. Lisa M. Thompson:** Thank you. I have one more question. Something that stuck with me, Jan, was when you said that Canadian policy is intruding into the marketplace. Outside of this disproportionate level of taxes, is there any other red tape that you would like to see addressed?

**Mr. Jan Westcott:** Today, one of the learnings that we've had over the last 25 years—for those of you who don't know me and don't know my background, I started out in the beverage and alcohol business as the president of the Canadian Wine Institute and the wine council, so I know the wine business pretty well. I was there seven years. I then went on to be the head of the brewers' association in Ontario and Brewers Retail, and helped manage Brewers Retail. C.J. and I spent 11 years or longer in the beer industry, so we know a little bit about the other businesses.

One of the things that is very clear, as I came into the spirits business, is the—and no one did these things. Call

them accidents of history; the way the world developed. If I'm in the wine business, I know; I was there. I helped negotiate the accommodation with the Americans when we did the FTA and then NAFTA. We secured the existing licences for the wine stores and all that sort of stuff. But as the world is changing and competition heats up, the ability to be more convenient for consumers—convenience is a huge factor. Everybody has a right to have a store at their facility, but our direct competitors also have a lot more access to the consumer, which makes it a lot more convenient. So it's not just the tax load, although the tax load is a huge issue. It's also convenience.

To be honest, we hear people say, "Well, we should sell some kinds of products, whether it's fruit wines of this or that, in farmers' markets or different kinds of venues." Well, that's great, but we make spirits here in Ontario using Ontario materials, using Ontario employees, and we ship it all over the world, and we get better treatment in many other places than we do right in our home province.

I don't expect these things to be fixed overnight, but when we sign trade agreements with other countries, we say to our industries, "We're going to give you three years"—or five years or seven years, whatever it is. "You need to make the adjustments, because we need to get on to it."

We have two things that we say to ourselves when we get up in the morning and look in the mirror. One is, stand with the consumer. The closer you are to your customer, the less trouble, the better off you're going to be. You're going to do okay. So pay attention to your customer. One of the things we like about the LCBO is that they're so focused on that, some days it's scary. Stand with your customer.

The other thing is, we believe in competition. Competition makes things better. When you don't have competition and people don't have to compete, it's a recipe for disaster. It's like spoiling your kid. You're actually harming the businesses that don't have to compete. Now, whether they don't have to compete because they've got a policy advantage or whether they're getting subsidized, it doesn't matter. You're killing them. You really are killing them.

**Ms. Lisa M. Thompson:** I appreciate that. Thank you very much.

**The Vice-Chair (Mr. Phil McNeely):** Mr. McDonell.

**Mr. Jim McDonell:** Any barriers or any issues with the LCBO that are really causing a problem, other than taxation? You've had experience across all three areas, but—

**Mr. Jan Westcott:** No. What we're looking for is a business-like partner. Notwithstanding that it's owned by the government, we're in business. We're in a business of providing the consumer with products the customer wants. What we look for in all of our customers—because they're our agents; they're our face—is a business-like operation. It's not to say that we don't have commercial disputes with them from time to time. That's



every business. But generally speaking—I have to be careful, but part of my job is fighting with the LCBO on some of those commercial issues. About two years ago, I came home after a long day at the board doing battle, maybe with some of the people that are sitting behind me. We were having a dinner party at our house on a Saturday night. I live in Oakville, and there's a brand new store that LCBO opened up in the north end of Oakville. My wife had been in there and had chatted with one of the product consultants. I get home and I'm just ready to strangle them and she's gushing about how great it was. So, no, it's the normal things you would see. But I think the strong focus on the customer is critical and a very business-like attitude and approach, which is tough, being a government agency or business. It's a difficulty.

**The Vice-Chair (Mr. Phil McNeely):** Time is up. We'll go to the third party. Ms. Forster.

**Ms. Cindy Forster:** With the growth of the wine industry and the craft breweries over the years, what impact has that had on your side of the business, the market share of the business overall?

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**Mr. Jan Westcott:** It's a competitive environment out there. The consumer only has so many dollars in his pocket. Let's be honest: There are a lot of misconceptions about the way people think about our products. When I was in the beer industry and the spirits guys were trying to get something done, we'd walk around and we'd talk about "hard liquor," and it conjured up this sort of really bad impression in everybody's minds.

Those old mythologies are still there. I fight with reporters all the time who use words like "booze." You say, "That's inappropriate. You shouldn't be doing it." "Yeah, but everybody knows what that is. Everybody gets a jolly when they see that." It has a competitive impact on us.

We're fighting tooth and nail to maintain our—and we're making some progress; right? We lost something like 50% of our sales volume from about 1965 to about 1995.

**Mr. C.J. Helie:** It was 1975 through 1989.

**Mr. Jan Westcott:** And we started to recover, coincidentally, about the time that C.J. and I joined the spirits industry. But it has been 1%, 1.5%, 2%, so we're not going to get back.

What happened at the same time is that there was a burgeoning of the beer industry. There was tremendous consolidation, a huge amount of marketing spend, and there was the opening of the Ontario wine business.

Government seems to fall all over itself—not just in Ontario; everywhere in this country and in the United States—to look for new things every day to help the wine industry. No disrespect to the wine industry, but, guys, there has got to be a limit. They're not the only people buying products made in Ontario with Ontario produce. Every time something happens, it has an economic impact on us. Again, we can only sell in the LCBO, not everywhere.

One thing I would tell you: If you go back 15 years, 18 years, 20 years, all the stores were kind of neutral environments; you really couldn't do much. The world has changed. The real action today is competing in the store for the consumer's attention, whether it's by displays or product contests or knowledge or things you're giving to the consumer as a bit of an extra value. Walk into any LCBO store. What do you see for the first 75 feet in the LCBO?

**Mrs. Donna H. Cansfield:** Wine.

**Mr. Jan Westcott:** You see Ontario wine. That's great. Where's the big display for Ontario spirits? No disrespect to the LCBO, because I think that has been government policy through successive administrations, and it's terrific, but we wind up getting marginalized.

**Ms. Cindy Forster:** So basically your message is, "Don't do for others what you're not going to also do for us," with respect to policy, with respect to financial grants, all of those kinds of things.

**Mr. Jan Westcott:** Right. Let's be honest. Most of the things that were done—and I don't mean to pick on the wine industry—for the wine industry were because it was a nascent industry that needed some help to make the transition to produce world-class products. Well, guess what? We're there. They're making world-class products. They are virtually the same as us.

One of my companies owns Vincor, so we have big guys out there that are doing good things. Yes, there are a lot of small operators, and yes, they're now wineries as opposed to just being called grape growers. But we've got thousands and thousands of people who grow grain in this province too. Maybe we should have a sign on everybody's gatepost saying "Ontario whisky," this brand or that brand.

I'm not arguing about those subsidies. Everybody should be treated the same, but we need to start withdrawing from some of these kinds of things because I think it has done its job.

**Ms. Cindy Forster:** How many employees does your industry support here in the province of Ontario?

**Mr. Jan Westcott:** About 1,700 directly; about 6,500 if you put the exports into the picture.

**Ms. Cindy Forster:** Right. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Miss Taylor.

**Miss Monique Taylor:** I haven't come up with any really good questions yet because I've been interested in hearing what you've had to say, other than: Do you have a really good referral of a good Canadian whisky?

**Mr. C.J. Helie:** That's the toughest question all year.

**Miss Monique Taylor:** Could you let us know the dollar value of 180,000 tonnes of corn? Are there facts around that kind of stuff?

**Mr. Jan Westcott:** I want to say it's in the \$60 million—

**Mr. C.J. Helie:** Current pricing is over \$4 a tonne.

**Miss Monique Taylor:** Okay. So—

**Mr. Jan Westcott:** A bushel.

**Mr. C.J. Helie:** No, a tonne; \$2.50 a bushel—or, sorry, yes, that's right. You're right. It's \$220 a tonne—



**Mr. Jan Westcott:** We're overpaying if it's four bucks a tonne.

**Mr. C.J. Helie:** Sorry. Yes.

**Miss Monique Taylor:** So the biggest challenges that you find that you're facing is the equality of products on the shelves?

**Mr. Jan Westcott:** It's a challenge for everybody. The world changes. It's a struggle to keep government policy up to date or current with the changes that are taking place in the world. If you go back 15, 16 or 20 years, you would encounter many more people that would say, "I'm a beer drinker," and they would tell you the brand. Or, "I drink white wine spritzers," or "I drink Wiser's 10-year-old," which is what my dad used to say.

Today, the vast majority of people that consume beverage alcohol—there are about 23% that do not drink beverage alcohol or they don't drink it on a regular basis, but of the rest of the people that drink beverage alcohol, they drink everything. It really depends on where they are, what's available, how convenient it is, how much it costs—all of the normal things that go into every other product that consumers buy and use. We need to be focused on making sure the policy keeps the marketplace as vibrant as possible.

Let's be honest: We're partners with the government. It happens to be through the liquor board, but the vast majority of the value or the wealth created in the business goes to government. You guys all have a much, much bigger stake in making sure that the marketplace remains dynamic and consumers are excited about everybody's products than we do. They fund the hospitals, they fund the schools, they do all that stuff, and things that either allow one sector to not have to work as hard—not spend money on innovation, not do things—or denigrate or harm one of the competing sectors damage the vibrancy of that marketplace and the value of that marketplace.

**Miss Monique Taylor:** Thank you very much.

**The Vice-Chair (Mr. Phil McNeely):** You have another minute. Ms. Forster.

**Ms. Cindy Forster:** Just one short question: There's a lot of pre-mix stuff in your business. What percentage of your total business is the pre-mix?

**Mr. Jan Westcott:** You mean like coolers and one-pour and things like that?

**Ms. Cindy Forster:** Yes.

**Mr. C.J. Helie:** By sales value, about 5%.

**Ms. Cindy Forster:** Just 5%. Thanks.

**The Vice-Chair (Mr. Phil McNeely):** We'll now go to the government. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you very much for your presentation. In particular, thank you for the breakdown and the addendums that you attached. I think there's no question that you supply a significant amount of money on the ad valorem in terms of markup, and it's very evident when you go across the board.

My question is—your sales. My comparable is for the wine industry. We made a decision that VQA would have some predominance in the store to increase sales. Do you have the same—vis-à-vis the spirits that are imported—

predominance in the store, being an Ontario product versus an imported product? And if not, why not?

Secondly, how much of the shelf space do you get at the LCBO versus the imports, and how is that determined? Is it with you or the LCBO?

I'm interested in the whole issue around the level playing field, because obviously you pick up a significant portion and you feel that—probably with some justification, because sometimes it's hard to find the scotch, I agree, or the whisky that's at the other end of the store. You have to go through a lot of wine before you get there. Where do you see we could make some improvements to ensure that we balance out that field a bit?

**Mr. Jan Westcott:** In terms of domestic treatment versus imported treatment, I'd say it's pretty equitable. Yes, from time to time, I complain that some stores have a slightly bigger Scotch whisky display than maybe Canadian whisky, but again, it's driven by the consumer. The fact that you can't go into every LCBO store and find exactly the same things everywhere means that the board is paying attention to what the consumers that maybe live in Etobicoke or live in North York or some part of Ontario are interested in. That's always going to be a little bit different, but on balance, I would say that our view is, it's equitable.

In terms of: Do we have enough shelf space? No, never. If we had twice as much as we have today, my answer would still be, "No, we don't have enough." More is always good. You're seeing a tremendous amount of innovation, particularly in Canadian whisky. You're seeing lots of innovation in the last five to seven to 10 years in spirits—flavoured rums, flavoured vodkas. We're starting to see different kinds of high-end whiskies coming out. So you need to have an opportunity to showcase those in front of people.

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It's about making money by satisfying what the customer is looking for. At the end of the day, you want to sell products that are profitable. Spirits, obviously, are highly profitable. It's a question of what that mix is.

I think that the stores are a little too wine-centric, but the same could be said for most of the liquor stores in Canada and, to a certain extent, a lot of the control states in the US. In part, that's because that's where the consumer's mind is at the moment. Certainly, they are very much Ontario-wine-centric.

Sorry, the third—

**Mrs. Donna H. Cansfield:** The issue of what you would do. One of the challenges you identified—for example, if you go into the liquor store, you always see a pick of the week by the staff and it's a bottle of wine. You rarely see a pick of the week that's a bottle of vodka. So those kinds of marketing initiatives—

**Mr. Jan Westcott:** To be fair, the LCBO has done a lot more than they used to. There are a couple of spirits-oriented promotions. We have a very good promotion in the summer. It changes themes each year. It ties into the patio-and-back-deck kind of thing. Of course, from our point of view, there's a very important promotion around



whisky that occurs every fall. Would we like to have more? Yes. Those kinds of things help educate consumers about our products, and so we see them as extremely valuable. We partner, and various brands pony up and go into those promotions. Nobody's perfect, right? Everybody could do more. I'd like to see some of my guys do more in-store tastings, à la what you see in the wine business and some of those kinds of things.

The issue for the spirits industry is having the money in your jeans to go and do those things. In our business, for every dollar of sale, our gross margin is about 20 cents. So for every bottle that sells, we get 20 cents on the dollar. If I'm in the beer business—and I was—I get 50 to 54 cents on every dollar. If I'm in the imported or blended wine business, it's about 35 cents out of every dollar, and if I'm in the Ontario wine business, it goes up to 80 cents. So I've got to compete against those guys. I go into bars a lot, and the bar owner will say, "You cheap bastards in the spirits industry never do any promotions in here. You're not doing anything. Get with it. Molson is in here every week." Well, of course they are, because they've got all this money.

Increasingly, you're seeing that we're now competing quite a bit and being outbid by small Ontario wineries with brands that would not be mainstream products competing actively with us for those kinds of slots because they have a lot of money to spend.

**Mrs. Donna H. Cansfield:** So where would you change it, Jan?

**Mr. Jan Westcott:** As I said, the struggle for the spirits industry is margin. We do not have enough margin to fund all the things that we need to do to drive the business for it, whether it's innovating new products at an aggressive rate or investing in marketing and advertising to tell our story, upgrading our plants so that we're environmentally superior and we're as efficient. We both distill and package under contract in Ontario, and we compete with plants in Kentucky, in—

**Mr. C.J. Helie:** Indiana, California.

**Mr. Jan Westcott:** —in Indiana, California. For a long, long time we were extremely competitive, and we were winning a lot of those contracts. In the last five years, we're holding our own, but we're not winning as many as we used to, and that goes to how much you can invest in your plants to have the most efficient equipment, to be environmentally sound. A lot of it is just investment to upgrade and upgrade and upgrade, and if you don't have enough margin, you don't have money to do those things.

**Mrs. Donna H. Cansfield:** Does the LCBO have any promotion, as they do for the wine industry, on new product for the spirits industry?

**Mr. Jan Westcott:** Yes.

**Mrs. Donna H. Cansfield:** So you get a similar opportunity—

**Mr. Jan Westcott:** Yes. And in fact, I would say that the spirits industry is probably the largest user of the promotional vehicles that are available in the LCBO. Now, you have to pay for them, but things like end-aisle

displays, feature promotions, Food and Drink—all of those things that help us communicate with the consumer are all very valuable to us. It's good to do them with the LCBO because you know that the person who's looking at them is thinking about buying something with alcohol in it, so they're efficient.

**Mrs. Donna H. Cansfield:** Thank you very much. So the LCBO, in fact, is doing things. Your challenge is really with the taxation and the level playing field.

**Mr. Jan Westcott:** The LCBO doesn't make policy. These are policy issues.

**Mrs. Donna H. Cansfield:** Right. It's the policy issues. We'll take that back.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Leal, you have two minutes.

**Mr. Jeff Leal:** First of all, Jan, I want to thank you. Spirits Canada, of course, is one of the title sponsors of the veterans' gala that's held every remembrance week in the riding of Peterborough, and I know many families really and truly appreciate that sponsorship.

I'm always interested in export sales. You indicated that 70% of your sales are exports. What percentage of that is non-United States exports?

**Mr. C.J. Helie:** Approximately 85% of our exports are to the US.

**Mr. Jeff Leal:** Through you, Mr. Chair, the Prime Minister just recently announced that we're going to be entering in probably the largest trade negotiations of this country's history with the Pacific Rim group. Are there opportunities or will you be a partner in that to make sure that your industry gets a fair share of what will be, as I see it, emerging markets and potentially billions of potential consumers for grape product?

**Mr. Jan Westcott:** Yes. For the 12 years that I've been with Spirits Canada, we've been very aggressive supporters of any initiatives that open trade with other countries. We are traders. Canadian whisky has a very strong, quality reputation around the world. You can go into any higher-end hotel, business hotel in the world and find Crown Royal, usually Canadian Club and some of our other products—Wiser's. Our problem is penetrating down into more of the mass market. So anything that opens those markets to Canadian products is good. We work with a number of federal ministries to do that, so we're quite excited about the opportunity, particularly as Asia looks like it's a growth area.

Again, and I don't mean to harp on this, but when you want to go and develop new export markets—and people talk about China—it's very, very expensive to do that. You've got to get there, and that's expensive, and it's a very expensive place to do business. If you don't have the money in your jeans—it would be great to sit here and say, "We can just reach over to my colleagues," because they're all owned by the same companies in the Scotch whisky industry, "and grab some of that money and use it to promote Crown Royal in India or in China," but that ain't going to happen. Those dollars, at least to get the ball rolling, have to be generated in the home market.



We just did some analysis, and in the UK, the margins available to the Scotch whisky industry or the spirits business in the United Kingdom, just as an example, are dramatically higher than they are in Canada. So I'm Diageo; I own Johnny Walker, I own Crown Royal, I own Bushmills Irish and I own five or six bourbons in the United States. If I make significantly more money from selling Johnny Walker and Bushmills and Bulleit Bourbon than I do from selling Crown Royal, where do you think Crown Royal is going to fit into that equation? That's the challenge that we have.

**The Vice-Chair (Mr. Phil McNeely):** Time is up. I thank you very much, Mr. Westcott and Mr. Helie, for being here.

#### ROBERT THOMAS ESTATE VINEYARDS AND WINERY INC.

**The Vice-Chair (Mr. Phil McNeely):** Our next presentation is by Robert Thomas Estate Vineyards and Winery. Debra Marshall, if you could come forward. You have 10 minutes, and if you would state your name for the purposes of Hansard.

**Ms. Debra Marshall:** My name is Debra Marshall. I'm a grape grower. We have a location in Prince Edward county. I'm also a director on the grape growers' marketing board of Ontario.

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I appreciate the opportunity to speak to you regarding the review of the policies and practices of the LCBO. I'll forewarn you that probably I'm the least proficient orator here today, so I hope that you'll have patience with me.

I've been a grape grower in Prince Edward county since 1999 and a committeeman member of the Grape Growers of Ontario for close to seven years and a board member for three.

When I first became a grape grower in Prince Edward county, it was a tough, uphill haul, but we grew from 12 wineries in 2005 to about 36 this year. As we grew and as the Ontario wine industry grew, some of the older existing practices, policies and governance models of industry organizations that were integral to the industry in the beginning no longer fit the landscape of the industry.

To use the Grape Growers of Ontario as an example, when we first came on the scene, there was no representation for growers outside of the Niagara area. The GGO listened to our deputations and found a resolution by changing their model and creating a committeeman's seat and, following that, giving Prince Edward county its own district and representation on the board.

The GGO recognized we had smaller winery models, different growing conditions and criteria, but they also realized that, as a new wine region, we could provide a market for the province's 100%-Ontario-grown grapes.

Just as the GGO, a key partner in the wine industry, has reviewed its infrastructure and governance, responding to the changing landscape to ensure fair representation to all growers, creating programs and conducting research to enhance and improve the ability

of their growers to produce their product, so must our other partners recognize the changes that have occurred in the industry and respond to them by enhancing their deliverables through strategies, programs and regulation review.

I believe it's important to look to the past to devise a successful path to the future. But determining a path or strategy is not enough; implementing, tracking and accounting for its progress is all part of what is essential to attain our goals.

This year, the Grape Growers of Ontario are celebrating 65 years as a formal entity. I believe this is important because during this period there have been constant partnerships that have moved the grape and wine industry forward—the growers, the wineries and the LCBO.

The fact that the government of Ontario regulates alcohol through the LCBO makes the government the de facto senior partner in the Ontario wine and grape sector. This review and the involvement of our senior partner are critical to the continued success of the grape and wine industry.

As with all partnerships, it has not always been easy sailing; however, these partners came together as an industry in 1999 to create a strategic plan, a shared vision for the industry's future. The resulting document was called *Poised for Greatness*. This document mapped a plan for the next 20 years, and all partners collaborated on the vision, which was clear and set critical targets that would be met incrementally until 2020.

In 1999, Ontario wine represented 42% of all sales. Through collaboration of the partners, an annual increase of 6% sales of Ontario wine was slated. It was expected that in 2011 the domestic share would represent 50% of all sales.

The LCBO committed, through its own brand vision, to ensure that the Ontario wines section would become a destination for wine buyers. This was to be accomplished through the reinvention of the Ontario wine section, expansion of Vintages, an increase in shelf space for Ontario wine and a program to assist small wineries in participating more effectively at the LCBO.

In fact, in preparing for this, I went and looked up the 2005 hearings and the deputations there. At the standing committee review of the LCBO, the then-chair and CEO of the LCBO, Mr. Olsson, stated that when he became acting chair and CEO that February, following the retirement of Andy Brandt, Mr. Brandt told him that all Ontarians have three jobs: their day job; coach and general manager of the Leafs; and third, CEO of the LCBO. I'm in no way suggesting that I want that job. However, he stated that almost everyone had an opinion of the LCBO, but he was fortunate that he had the opportunity to express those opinions to the people running the business: the provincial government.

In 2005, Mr. Olsson also stated that it was fair to say that few public or private enterprises had transformed themselves so successfully or completely as the LCBO, through operations becoming customer-focused, effective



and cost-efficient while also contributing to the success of Ontario's domestic beverage alcohol industries.

When the results of wine sales were published in 2011, it was extremely disappointing to find that we had not attained our objectives but in fact the domestic market share decreased by 4% from the 1999 level to 39%, missing the agreed-upon goal of 50% by 11%. This failure to attain the agreed-upon target cannot solely be attributed to the LCBO, as they are accountable to the government only for the distribution channels they control.

The volume of Ontario wine sold has a huge impact on all of the grape growers of Ontario. In 2008, the grape-growing industry had a surplus of 9,000 tonnes of grapes, which were dropped on the ground. In response to this, in 2009 the government of Ontario put into place a policy focusing on VQA. This policy helped to move the industry forward. The policy required a minimum of 25% Ontario grapes in a bottle, and a company average of 40%. Our de facto partner in the industry created policy that resulted in a positive impact on the grape-growing industry.

Of the 500 growers in Ontario, 30% are vertically integrated, being winery/growers, but 70% are independent growers, meaning their sole income is from the sale of the raw product, the grape. That 40/25 content stabilized the industry at a time of crisis. However, until we live in an Ontario where imported wines don't dominate our home market, commanding three quarters of the market share at the LCBO, we will need the province to maintain its current 40/25 content regulations for blended wines.

Along with that, other measures must be taken by the LCBO. Talk of privatizing the LCBO has been brought forward continually. Abandoning the Ontario government's distribution channel will not benefit the industry but only set it back.

The LCBO has achieved the financial targets that the government has put before them continually, and I applaud their achievements financially, as well as their strategies to provide clarity to the consumer in respect of the blended wine issue. We need the government to ensure that strategies to grow Ontario wines are adhered to through clear directives, with benchmarks and metrics put in place.

Currently, the grape-growing industry provides an economic impact of \$12,758 per acre on 15,074 acres in Ontario. This results in an annual economic impact of \$1.92 million and change. If you calculate the impact of Ontario wine sales, the total economic impact to the province is \$33,000 an acre, resulting in close to \$500 million.

The economic impact of an imported bottle of wine results in 67 cents. In comparison, the direct and indirect value-added economic impact of 100% Ontario-grown wine is \$12.29.

The Ontario government knows that 100% Ontario wine provides a good rate of return, and, through the LCBO, has an established distribution channel to garner

this economic infusion. The government has invested \$9 million a year for seven years into the industry. Governments do not repeat investments unless there's confidence that there is a return. The LCBO has been the government-controlled agency that has enabled this type of return to the provincial coffers. Imagine what the increase in return would have been if, along with the 40/25 content regulation, the industry partners had achieved that increase of market share from 42% to 50%. The plans to grow the Ontario market share were in place, but were forgotten along the way.

We need the government of Ontario to give clear direction to the LCBO to set measurable targets for the growth of the Ontario wine categories and Vintages and make them accountable. The targets should be designed specifically for the growth of our domestic market. These targets and the resulting growth should be reviewed annually by the industry partners. A transparent scorecard should be created to track these metrics.

Rather than reinventing the wheel with a new model of fine wine stores that will be selling both domestic and imported wine, or privatizing the LCBO, we should look to improving the model we have that essentially works, but improve it by providing clear direction, doubling the size of Vintages and the Ontario wine section, and following the opinion of the Drummond report.

By requiring accountability and putting into place achievable targets, we can grow our industry to own at least 50% of the market share. It is an embarrassment that Ontario is the only wine region in the world that does not own at least 50% of its market share. There is no just reason why we cannot. Ontario wine has gained accolades around the world and has been centred out as a premium product. It's time that we stopped hiding our light under a bushel.

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Through better accountability and through achieving targets like the ones suggested, we will stabilize the industry, generate larger economic benefit, support and grow our agricultural base, and provide a sustainable future for the industry and the province of Ontario.

At this time, I'd like to clarify something that was spoken to earlier this morning about who has the authority over varietals that are put into the VQA. The VQA Act stipulates which varietals are VQA-able and it's legislated. So the VQA has total authority over that. It was mentioned that the grape growers' association looked after it; we do not, but what we do is provide research material or data to VQA when they're looking at another varietal.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Ms. Marshall. We will go the third party and Miss Taylor.

**Miss Monique Taylor:** Thank you very much for being here with us. You've covered everything very well here. Again, the biggest challenges that you're facing with the LCBO would be getting onto the shelves?

**Ms. Debra Marshall:** Market share. And I'm speaking on behalf of—we heard about the grain growers. I



believe—I'm sure you can find this—our farm gate was somewhere around \$60 million last year. That's the money that goes to the growers. This is about agriculture, not just about the added-value product. So what the LCBO does affects the farmer, same as the grain growers. When we don't have our market share, it impacts heavily upon those growers who are employing people here, who are paying property taxes, who are paying income taxes, who are contributing to our economy.

**Miss Monique Taylor:** So saying all that, then, how much of your grapes are getting into the bottles and how much are staying on the ground? Would that be a fair question?

**Ms. Debra Marshall:** Back in 2008, they dropped 9,000 tonnes. Then, with great thanks, the government put into place strategies to increase the VQA market share. It has grown, I believe, by about 6% since that time. They also put into place a 40% company average and a 25% minimum bottle content of Ontario product in the blended wines. If that was not there, we would still be dropping grapes on the ground.

**Miss Monique Taylor:** Okay. So more VQA grapes are getting into the bottles than the non—

**Ms. Debra Marshall:** No, that's not what I'm saying. More Ontario grapes are getting into the bottles because of the requirement of the 40/25. Okay?

**Miss Monique Taylor:** Okay.

**Ms. Debra Marshall:** But along with that, VQA sales have improved because of the government's encouragement that VQA be promoted by the LCBO.

**Miss Monique Taylor:** Okay. Thank you.

**Ms. Debra Marshall:** You're welcome.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Forster.

**Ms. Cindy Forster:** I don't actually quite understand the piece about the 40% company average. I understand that we have to have 25% Ontario grapes in the blends. Can you expand a bit more on the 40% company average?

**Ms. Debra Marshall:** I always found that a little bit confusing too, but basically I'm ABC company and I have different products that I'm blending, okay? As long as I have a company average of 40%—okay, as long as I have a bottle content of 25%—

**Ms. Cindy Forster:** Yes.

**Ms. Debra Marshall:** But the company has to have 40%. So there could be some blended wines that have 90% Ontario in them and some that have 10%—no, some that have 25%.

**Ms. Cindy Forster:** Right.

**Ms. Debra Marshall:** The company average has to be, overall, 40%.

**Ms. Cindy Forster:** Forty. I get it.

**Ms. Debra Marshall:** The overall average has to be 40%. It can never be less than 25%.

**Ms. Cindy Forster:** Do you have any comments with respect to the last presentation and the suggestion that perhaps the wine industry is advantaged? You may not be advantaged as having 50% of the market share, but you're advantaged because of—

**Ms. Debra Marshall:** Policies?

**Ms. Cindy Forster:** —policy, the superior shelving of wines in the LCBO, and perhaps some of the subsidies that the wine industry receives that the distillery industry doesn't receive.

**Ms. Debra Marshall:** First of all, I don't believe there are subsidies. We did have the government rearrange the taxation, so it's coming out of the wine industry and going back into a different part of the wine industry. I'm looking for those pockets that have all this money for marketing; I don't have any pockets.

You've put me in a very difficult position, but I disagree. The marketplace is looking to wines, and if another product isn't selling as well because it's a different type of product, it's the consumer who decides that.

As the gentleman had said—I believe his company is owned by Vincor, which is owned by Constellation, which sells a huge amount of the product that is in the LCBO. So even though there's competition between different segments of that company, the wine industry in Ontario is competing against all of them.

And I agree that—I think it should apply to spirits, cider, beer.

The LCBO should be promoting our homegrown products, and I don't think that that is a disadvantage because, as I said before, the economic impact of selling our homegrown products is far greater and returns more to the government than foreign products.

**Ms. Cindy Forster:** Thank you. That has helped.

**The Vice-Chair (Mr. Phil McNeely):** Your time is almost up. You have time for one more question. Thank you.

We'll go to the government side and Ms. Jaczek.

**Ms. Helena Jaczek:** We had a very interesting presentation this morning from Ms. Sullivan from the Prince Edward County Winegrowers Association, and I think you were here for that.

**Ms. Debra Marshall:** Yes, I was.

**Ms. Helena Jaczek:** She made a couple of suggestions beyond the LCBO itself, and one was to have a centrally located Prince Edward county wine store that could support local businesses. In other words, there are visitors coming to Prince Edward county, and they may visit some wineries, but to have a central location retail operation would be helpful. She made the comment that with the wine-tasting festivals that occur each year, the people who attend ask, "Why can't I buy wine right here?" How do you feel about that suggestion?

**Ms. Debra Marshall:** I'm from Prince Edward county. I was one of the founding members of the Prince Edward County Winegrowers Association, and I support them, but I try to look at a broader Ontario aspect.

I think they're both great ideas. The LCBO would have to determine how they were going to handle that. I couldn't give you that input. I think you would also have to look to every region that has a festival: southwestern Ontario, Niagara, anywhere there's a DVA. And what about the people who aren't in a DVA who have winer-



ies? How do you treat them fairly? What about people in Gananoque or Navan or around the Ottawa area?

There had been talk of having Ontario wines in the ByWard Market when they were talking about farmers' markets. Well, what about those, again, like Mr. Karlo's, who has a stellar product but it's not VQA-able? He couldn't get into those entities unless you're VQA.

The problems that the small wineries face are even more compounded. If you want to be VQA-able, you have to grow the right grape, and that's fine; a lot of them do. But then it's \$1,000 a year, plus there's a levy. If you want to take advantage of the \$3 million a year that the government provides the wine council for the promotion of the Ontario wine industry, then you're going to pay about \$5,000 to be a member of the wine council and to get on their map. All of a sudden, there's a \$6,000-plus bill for a small winery that may only be producing 500 cases of really world-class wine. Again, the pockets are not that deep.

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There are strategies that maybe could be run out as pilot projects, but it should apply to Ontario beer and Ontario cider, not just wine. I think that's important.

**Ms. Helena Jaczek:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Mrs. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you for your presentation. It was really interesting. It's always interesting to hear the difference from the grape growers' perspective as opposed to the vineyards, and then there are vineyards who are also grape growers. You're right: It can be complex.

I understand and support the need to grow new businesses—I think that's really important—and to provide the support mechanisms, whatever they might be. There is a point, however, where you have to say that it's time to go out on your own. There may be mechanisms to bring back, like an umbilical cord kind of thing, if there are some challenges.

The wine industry has grown from, what, 19 to 207 wineries now in Ontario? So obviously it has been a great success. I'm not sure how many grape growers. It's interesting, because I also think of you as grape farmers, actually.

**Ms. Debra Marshall:** There are about 500.

**Mrs. Donna H. Cansfield:** There are about 500, so that too has obviously grown.

My question to you is: You are advocating a 50%-for-Ontario market. I'm not sure what the NAFTA rules would require in terms of that domestic content issue. I didn't know if you knew.

**Ms. Debra Marshall:** They would have no say in it. It doesn't impact.

**Mrs. Donna H. Cansfield:** Except, from what I understand, they watch our wine industry very closely.

You said earlier, and I wrote it down, that the marketplace is looking to wine, but wine is typically based on quality and price point. So even if you have really good quality and it's not an affordable bottle of wine, people

are not going to be able to purchase it. Some people will be able to.

**Ms. Debra Marshall:** I agree—

**Mrs. Donna H. Cansfield:** So my question to you is, how do you reconcile that part of it in terms of being able to get 50% of the market share? Are you talking about 50% of the grape growers or 50% overall of the wine production?

**Ms. Debra Marshall:** Of the wine that is sold in Ontario, 50% should contain Ontario product.

**Mrs. Donna H. Cansfield:** If that's the case, do you not think you'd get to your 50% market through the number of grapes used in the bottling of that wine as opposed to—

**Ms. Debra Marshall:** No, we haven't.

**Mrs. Donna H. Cansfield:** No—do you not think that would be the ideal route, as opposed to just the bottles on the shelf?

**Ms. Debra Marshall:** If we could get 50%, 60% in the bottle, yes, we could get to that point. But then, the problem occurs in the processors' side—the bottom line.

**Mrs. Donna H. Cansfield:** That would be another—

**Ms. Debra Marshall:** That's another area I'm not qualified to speak to.

**Mrs. Donna H. Cansfield:** And then I was just curious: Why do you have to pay—so if we give the wine council \$3 million to promote Ontario wine, what's the up-front membership fee for?

**Ms. Debra Marshall:** To be a member.

**Mrs. Donna H. Cansfield:** I'm sorry? Just to be a member, and it's that expensive to be a member of the wine council?

**Ms. Debra Marshall:** If you want to be a member and be on the map in their booklet.

**Mrs. Donna H. Cansfield:** Okay, so it's also promotion in a booklet; it's—

**Ms. Debra Marshall:** Promotion in the booklet is \$5,000, but Ontario gives \$3 million to the wine council to promote Ontario wineries. But unless you're a member, you're not promoted.

**Mrs. Donna H. Cansfield:** And you have to pay \$5,000 to be a member?

**Ms. Debra Marshall:** Yes.

**Mrs. Donna H. Cansfield:** I'm having trouble with that one.

**Ms. Debra Marshall:** Okay. Well, Rosehall Run is a member. For instance, I'm John Smith Winery and I'm not a member. I don't get in the provincial book. I don't get in the wine council book that says "the wineries of Ontario" because I'm not a member. So then I have to go and promote myself or try to get some leverage to say, "I'm there."

The advantage that the government money does do is that the wine council promotes Ontario VQA wine. It promotes Ontario in general as a wine destination, as a wine-growing region, so there is a broad promotion. But as a winery, I have to be a member to be specifically listed or gain the advantage of that map.



**Mrs. Donna H. Cansfield:** Do you think that we can produce enough wine at a price point that you could end up with 50% of the market?

**Ms. Debra Marshall:** I do.

**Mrs. Donna H. Cansfield:** You do? Okay, thank you very much.

**The Chair (Mr. Phil McNeely):** Another minute. Would Mr. Leal like to ask any questions?

**Mr. Jeff Leal:** No.

**The Chair (Mr. Phil McNeely):** Thank you very much. We'll now go to the official opposition and Mr. McDonell.

**Mr. Jim McDonell:** Thank you for coming out today. There's no question we'd like to see us get up to the 50% level, and it seems—of course, we're driven by consumers' desire for product. Do you see any changes within the LCBO, their promotion, that would help you get there, or is this just—you know, is 25% high enough, or if by driving that up, would that make our wines less desirable? I'm just kind of grappling here with some ideas that may do something here.

**Ms. Debra Marshall:** Speaking of VQA, VQA sets quality standards. Some are sugar—Brix levels. The 100% price that we calculate payment for grapes is higher than the VQA requirement. So growers are already growing their grapes surpassing the requirement of VQA. So our grapes are high quality now, okay? High-quality grapes make great-quality wine. We're already there as far as the growing aspect, so I don't see that there would be a problem in increasing that percentage in the bottle—affecting the quality of the wine.

**Mr. Jim McDonell:** Just as a follow-up, I'm assuming they're set at that level because, you know, the recipe that's involved in wine growing, there must be something that particular wines that people of Ontario like or have certain vintages—if the grapes are equivalent, to me, there'd be nothing that would stop the wineries from—

**Ms. Debra Marshall:** Well, no, the 40/25 is in regard to blended wines. For instance, if you have a hot country, you're going to get higher Brix and then you can blend your wines to bring it down to the level that you want to sell them at. Plus, you can buy grapes or buy wine, bring it in and blend it. The bottom line is the issue there for a corporation.

**Mr. Jim McDonell:** Okay.

**The Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you very much for being here. I appreciate the fact that as a grape grower, as a farmer, you're developing a great product, hence the quality of the output into the wine has improved dramatically as well. I'm just wondering: In your opinion, do you feel the provincial wine industry has evolved along with the grape growers, or are they behind? Do you dare answer that?

**Ms. Debra Marshall:** You know what? I'm one of those people—I believe that everybody has progressed, okay? Everybody has different mandates. I think collaboration is essential to get us to where we need to be, but I'm a firm believer that our senior partner—sometimes,

you know, if there's a will, it's done. If there's the passion and the desire, it's done. But sometimes you may need a little nudge from above to get things moving, and I think perhaps maybe that's where our provincial government could lend a hand in moving forward. If we have direction on on saying, "You know what? We have to grow that. We have to make sure that this gets done because it's of economic value to the province," then I believe, if there are clear directives and there's a method of tracking and a method of metrics, this will all get done.

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**Ms. Lisa M. Thompson:** So just to be clear, the senior partner you see as being the province?

**Ms. Debra Marshall:** Oh, certainly.

**Ms. Lisa M. Thompson:** And in essence you answered another question—I was going to ask you about the relationship between the grape growers, the wine council, etc. But you answered that the province needs to lead the way—

**Ms. Debra Marshall:** You know, we all work together. We all have different viewpoints. Let's face it: Processors are looking for their bottom-line value. Growers are trying to stay alive. Their expenses increase and their prices—what they get—generally don't. They're struggling, but in the interim they are doing all the extra work to get that quality up. So they've progressed a substantial amount.

**Ms. Lisa M. Thompson:** Thank you very much for that.

One more quick question and then I'll share the mike with my colleagues. You mentioned that the varietals are determined by VQA, which is essentially legislated. Do you feel it is time to revisit the varietals that are allowed?

**Ms. Debra Marshall:** I was just talking to my colleague during lunch, and I made a few phone calls during lunch to find out what the process is. If a winery has a stellar product and they would like to have that varietal reviewed, they should contact the VQA; they should write to them making a formal request. The VQA will then respond. If that varietal doesn't have a market, then in likelihood it's not going to be approved.

This Frontenac that this is made from is relatively new. It is grown in the outlying areas where it's colder because it overwinters well. In the beginning, it was a challenging wine to make because it was new, but since it's been planted, people have done some very wonderful work with it. They've taken the time; they figured out how to deal with the high acids. They have been innovative. That's one of the things that we were challenged about, not being innovative; well, our winemakers have been innovative and have produced very good products from this.

Is there a market for it? Yes. What will have to happen is that the VQA will go to the Grape Growers of Ontario and say, "How many acres are planted? How many tonnes are sold of this grape?" and use that data, give that to the VQA, and then the board will look at it and decide yes or no.



Geisenheim is another varietal that people have been asking to be VQA-able for years. VQA likes to ensure that the quality would be accepted by other countries as an export. How they do that, I don't know. But would it be time to maybe review it? It probably would be a good idea.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Smith. You have two minutes.

**Mr. Todd Smith:** I have two minutes. Thank you very much.

The feeling in Prince Edward county, an emerging wine area, as you know, is that there's a lot of frustration with what a lot of them are calling an archaic system here that doesn't give them any, or very little, market access. I'm sorry I didn't catch your whole presentation, and maybe you did address this when you started off, but do you have a sense of that frustration, particularly from Prince Edward county, which is only 10 or 12 or so years old? And what would it take, in your mind, to give them greater access to the market? A lot of them are stuck selling their products just out of their wineries or possibly over the Internet, but they are very limited in their exposure to the market. Do you get that sense of frustration?

**Ms. Debra Marshall:** Oh, for sure. Every small winery in Ontario has the very same frustration. It's not unique to our area. A person in Mallorytown or in Navan or in Georgetown or Georgian Bay will have the same problem, but we are a DVA, so there's a group of us being all frustrated together.

But, yes, there is, and if there's a directive to put more Ontario wine on the shelf, to increase the market share for Ontario, then that should take care of moving that forward.

**Mr. Todd Smith:** Do you have confidence in the VQA system, that it's doing the job that perhaps it's intended to do?

**Ms. Debra Marshall:** I'm not an expert in that field. I think that it's always healthy to review legislation, to review regulations, to see if it has kept up to date with the market and to see if—I believe their challenge is that they have to meet NAFTA, they have to be careful that they don't impede what they've accomplished internationally by lowering standards, as with any organization, like the GGO. We reviewed our infrastructure, we reviewed our models, and we looked at how we could be more effective and how we could deliver to our members and to the industry better. Maybe a review is healthy for any organization.

**Mr. Todd Smith:** There are award-winning wines coming out of Prince Edward county, and I'm sure there are right across the province that are winning international awards. They can't meet the standards set by the VQA, but their wines are being sought after around the world and across the country.

**Ms. Debra Marshall:** Some of them can meet the standards but choose not to pay the fees. Others don't have the varietal that's acceptable. So, yes, I think the varietal should be reviewed on a regular basis.

**The Vice-Chair (Mr. Phil McNeely):** Time is up. Thank you very much for your presentation, Ms. Marshall.

#### COUNTY CIDER CO.

**The Vice-Chair (Mr. Phil McNeely):** The next group is County Cider Co. Grant Hawes, if you would come forward, please.

**Mr. Grant Hawes:** It's Howes, H-O-W-E-S.

**The Vice-Chair (Mr. Phil McNeely):** Howes. I'm sorry about that. It's my writing; the information was given to me properly.

We'll go to the government side, I believe, for this. Who wishes to—you will have your presentation for 10 minutes.

**Mr. Grant Hawes:** Do I have it now?

**The Vice-Chair (Mr. Phil McNeely):** Yes, and state your name for Hansard.

**Mr. Grant Hawes:** Yes. My name is Grant Howes. I'm the owner of the County Cider Co. and Howes Orchards down in Waupoos in Prince Edward county.

First, I'd like to thank everyone for having me here. I got invited here. I was literally on my tractor this morning, and it has taken me an hour and a half to get here, so I don't have a formal presentation. But what I'd like to do is make you feel good about cider and the LCBO.

By way of background, we were licensed as a winery 15 years ago. At that time, we had a gross income of about \$60,000 from selling apples. We were licensed as a winery before there was a VQA, before there was a wine council. Since that time, since 1995, when we produced 600 litres of cider, we now produce over 300,000 litres of cider from our facility. If you use the KPMG report, that's value added to the Ontario province of over \$12 million, and that's from a farm that was maybe producing \$60,000 back in 1995. It has allowed me to buy out my parents, who have a very good living now as retired farmers. We have over 15 employees. Two of my cider makers are graduates of Loyalist College and make very good livings. They go to England to take cider-making courses and to Cornell University to speak on cider making, so we have done very well up to date. Quite frankly, we couldn't have done it without the help of the LCBO. When I say "the LCBO," I'm talking about the staff, the category managers and that sort of thing.

We compete against very large companies. For example, Strongbow, which is owned by Heineken, purchases over 44% of the English apple crop every year. That has turned into 453 million litres of cider a year. We initially were told that we had to at least sell as much as they did through the LCBO, or they were going to take us off the shelf. That was back in 1996.

I should mention that early on, we recognized—because of where we are; like I said, it took me an hour and a half to drive here, and that's on country roads—that we needed distribution, and the LCBO was the only game in town. We do have a wine store, but that's a very,



very limited holidays-and-the-summer kind of thing, so we really rely on the LCBO to distribute our product.

Very early on, when they found out we were a small producer, we've been helped by the employees of the LCBO. I have nothing but the highest regard for them. I think we're very lucky to have these people working on our behalf. They're some of the most talented marketers and retailers anywhere in the world.

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Having said that, where do we go from here? We are licensed as a winery. Three years ago, I tried to join the wine council. I was told that they were told to keep away from the cider industry with a 10-foot pole.

I'd love to have my apples VQA'd. I'd pay the fees gladly. Right now, I pay 67 cents on the dollar in mark-ups. I am deemed a foreign producer in my own province, and when I export—and when I say “export,” that's taking my product from Prince Edward county to the rest of Ontario—that 67-cent tariff is there. I've had the Conservatives tell me it's terrible when they were in power, I've had the Liberals tell me it's terrible when they were in power, and it always comes back that there's nothing they can do about it.

**Mrs. Donna H. Cansfield:** Why?

**Mr. Grant Howes:** Why, I don't know. Maybe Mr. Ford can answer that. He's in the room. He has been very helpful over the years.

One of the biggest problems we have now—and you can check this with the LCBO. The fastest-growing category at the liquor board is cider—60% growth in one year. They're very proud to say that a lot of that is domestic. Very little of it, except for me, is Ontario cider. We work very, very hard to put our product on the shelves. In fact, two years ago, we were picked as the best cider in North America at a show in Michigan. This past year, we were picked in London, England as one of the top 10 ciders in the world.

We distribute our product in over 150 licensed establishments as a keg product. I should mention that a keg of cider, that stainless steel container, will last 30 years. It doesn't end up in a landfill. We use the standard beer bottle. It's not only recycled; it's used eight times in the beer industry. Furthermore, we've reduced the use of pesticides. Because of the apples we're growing now for cider, we've reduced pesticide use by over 80% in our orchards. We are the sustainable model for wineries in the world, in Ontario. The sky's the limit.

We now have seven other Ontario cideries. I hope they survive. I don't know if they will or not because of the high tariffs we face, getting our products to market. As I always tell people, we're always at eye level on the shelves of the LCBO, if you're lying on the floor. We don't have the same programs that the VQA wineries do. The wine council doesn't like us; the craft beer companies won't return our calls.

Our distribution—how can I explain this? Like I mentioned earlier, we are in 150 licensed establishments in Ontario. We could be in over 500. We could kick out every foreign cider that's on tap in every pub in Ontario,

but it is controlled by three import beer companies that we can only use to distribute our product. The one that actually returned our calls and is distributing my cider charges \$30 a keg to distribute that cider. That's after I pay the liquor board 67 cents on the dollar.

Most of the cideries don't want any money; we don't want any programs. We just want to be treated as a winery or a craft brewery and get rid of these tariffs. Make them level with other wineries. Let us distribute our product utilizing domestic craft beer companies as opposed to having to utilize foreign beer importers. To give you an example, Premium, owned by Moosehead: I've been trying to get a meeting with them for over six months to have them distribute my product. They never returned the phone calls. Diageo, the other company, referred me to their office in New Jersey. Then last week, I found out that Premium is bringing a foreign pear cider into this province. Why aren't they talking to us? They don't have to talk to us because they have a closed market. Get rid of that market, get rid of the tariffs on cider and, for that matter, on non-VQA wines and just see how we go.

I don't want to pontificate here, but we could be world producers and global manufacturers of cider in this province. We have the weather; we have the apple varieties. We can grow the apple varieties from the UK that can no longer grow there because of global warming. We're making the best cider in the world, and we just need a break. We really do. We don't want our own—well, maybe our own shelves at the LCBO would help, but some help from the LCBO, some minor changes in policy, and you're going to have industries in rural Ontario such as mine where I'm employing 15 to 20 people right now, value-added jobs and a real future in the industry. So there you have it. How's that for off the top of my head?

**The Vice-Chair (Mr. Phil McNeely):** Well, Mr. Howes, you didn't need that much preparation. That was well done. We'll go to the government and Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you very much. I was interested—was it the wine council who is not interested in you, or are they—

**Mr. Grant Howes:** Definitely not interested. The wine council is now only interested in VQA wines.

**Mrs. Donna H. Cansfield:** So they're the ones who actually—I was just curious who it was. So if there's yourself and seven others, have you considered getting together and forming your own association?

**Mr. Grant Howes:** Yes. In fact, over the last 15 years—and maybe it's my own stubbornness—there have been a lot of cideries that have come and gone. There are now about seven others. We formed our organization, the Ontario Craft Cider Association, that was mandated and was incorporated, so we're all set to go. The unfortunate part—and this is something all of you are going to have to address—is the devastation in the apple industry this year. It's getting worse and worse and worse, and I don't know where it's going to end.



**Mrs. Donna H. Cansfield:** Do you fall under risk management then, as an apple crop?

**Mr. Grant Howes:** Risk management, yes, but because I'm doing it as a value-added product and there's no infrastructure and no real understanding of hard cider at the apple commission level, I don't use risk management. I charge myself 13 cents a pound for fruit, okay, and take it down—so for me, being part of the risk management program doesn't pay.

**Mrs. Donna H. Cansfield:** So it sounds like you're a little bit of an anomaly. You don't fit in that box and you don't fit in that box and you don't fit in that box, so you have to sort of make it—

**Mr. Grant Howes:** But if I was in England, I'd fit in not only all the boxes—and I should mention that in England, cider sales surpass lager sales, so that would be like a rural industry here surpassing the sales of Molson Canadian and Labatt in the liquor board and in pubs. Wouldn't that be great for rural Ontario? I love beer as much as the next guy, but let's face it: It's made with foreign products. The only real product that's in there from Ontario is water.

**Mrs. Donna H. Cansfield:** So you have a 60% growth rate, though, and as a—

**Mr. Grant Howes:** Well, no. The cider industry, cider sales through the liquor board have a 60%—

**Mrs. Donna H. Cansfield:** Right; that's fine. It's a 60% growth in terms of your sales. As a business person, I would find that very attractive, to be honest with you, and so I'm surprised that you're not having more serious conversations with the LCBO to get off the floor and on a shelf that's a little higher. That's one, because obviously, their bottom line is, the more sales, the more money we get, so I think you've got a really good business case to put in front.

In terms of the anomalies, I'm not sure that I totally understand the issue around the fact that you're treated as a foreign company and you pay all these fees, but I do understand that you somehow fall under the beer distributors for your distribution.

**Mr. Grant Howes:** Foreign beer distributors. There are three companies that are licensed to distribute foreign beer and cider.

**Mrs. Donna H. Cansfield:** So that's where it falls under.

**Mr. Grant Howes:** To give you an example, I distribute my own cider. I have my own truck, and my driver spends—well, today he's in Ottawa. It takes him three hours to get there, two hours to deliver and three hours back. So his total day is roughly eight hours. Tomorrow, he'll be going to Toronto. It will be eight hours of driving to deliver two hours' worth of product.

**Mrs. Donna H. Cansfield:** So do you have to use them, or can you use another logistics?

**Mr. Grant Howes:** No, we have to use them.

**Mrs. Donna H. Cansfield:** You have to use them because you're considered a foreign import?

**Mr. Grant Howes:** Yes, we're deemed a foreign import. Quite frankly—

**Mr. Jeff Leal:** That's crazy.

**Mr. Grant Howes:** Well, it does sound crazy, but in the cider industry—and this goes back to the wine industry—the good stuff was always imported stuff, so the rules were set in place to make it an efficient system. And getting back to the 60% growth rate in the LCBO, for example, my competition yesterday announced a \$12-billion takeover of the rest of Corona in Mexico. This is a company that, if you look on their website, doesn't even include Labatt as an asset. InBev—that's my competition, and you know something? I'm beating them in taste, in flavour. You know, if we just had some more recognition that Ontario produces a great cider, which is legislated as a wine but marketed as a beer, the sky's the limit.

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**Mrs. Donna H. Cansfield:** Actually, it doesn't make any sense, so what I'm going to suggest—obviously, I think there will be some conversations here, but I think you should be having some other conversations beyond what this committee might consider. I'm going to suggest to you that you give me your contact information, or we could connect, and we could find some way to get you in, because small and medium enterprise is exactly what we want to do to grow Ontario and make it strong. You've fallen in a funny little crack somewhere that needs to—

**Mr. Grant Howes:** That's right.

**Mrs. Donna H. Cansfield:** We need to help you get out of the crack. I'm prepared to work with you on that, so let's get together with you and see what we can do to be of some help.

**Mr. Grant Howes:** That would be fantastic. It's not only me. Like I mentioned earlier, 44% of all the apples in the UK go into cider. Could you imagine increasing our apple production in areas where we need it, like in eastern Ontario, the traditional areas like the Ottawa Valley, where they need jobs, where they need value-added production?

**Mrs. Donna H. Cansfield:** Absolutely.

**Mr. Grant Howes:** We could do that easily in five years, with the right apple.

**Mrs. Donna H. Cansfield:** I want to say thank you very much for your presentation. What a way to end an afternoon. It was incredible. As I said, I'm prepared to work with you.

**Mr. Grant Howes:** It would be better if they sold my cider here. I'd buy you all a drink.

**Mrs. Donna H. Cansfield:** I was going to say, I need to go and find your cider now and have a taste. What's your brand name?

**Mr. Grant Howes:** It's Waupoos cider—Waupoos Premium Cider, and the County Cider.

**Mrs. Donna H. Cansfield:** All right. Thank you very much.

**Mr. Grant Howes:** Thank you.

**Mr. Todd Smith:** It's very good.

**The Vice-Chair (Mr. Phil McNeely):** The government has three more minutes. Do you wish to use that time? Mr. Leal.



**Mr. Jeff Leal:** Because of the warm weather at March break and the premature blossoms of the apple orchard and other tender fruit, what's going to be the survivability of the crop this year?

**Mr. Grant Howes:** It's going to be very challenging.

**Mr. Jeff Leal:** Fifty per cent, 25%?

**Mr. Grant Howes:** I think it's going to be less than 15% in Ontario.

**Mr. Jeff Leal:** Less than 15%?

**Mr. Grant Howes:** Fifteen, yes.

**Mr. Jeff Leal:** Outside of the LCBO in Peterborough, can I find it anywhere else in Peterborough? It's not going to be at Home Hardware, where I like to go—

**Mr. Grant Howes:** Once again, we're limited in our distribution because of who we can get to distribute our kegs. We'd love to be in Peterborough. We tried to get in Barrie, but it's just too hard. Like I said earlier, our driver is six hours driving, two hours delivering.

**Mr. Jeff Leal:** Do you have a business card I could have?

**Mrs. Donna H. Cansfield:** Yes.

**Mr. Grant Howes:** I will get them, for sure.

**Mr. Jeff Leal:** Okay. I'll give you mine. I'll see if I can find you a distributor.

**Mr. Grant Howes:** Well, there's three I can pick from.

**Mr. Jeff Leal:** Here.

**Mr. Grant Howes:** Okay.

**Mr. Jeff Leal:** Other than Home Hardware, I may be able to find something.

**The Vice-Chair (Mr. Phil McNeely):** Is this all legal?

**Interjection:** Sure. Why not?

**Mr. Jeff Leal:** Always trying to drum up some business.

**The Vice-Chair (Mr. Phil McNeely):** You still have the—

**Mr. Jeff Leal:** I'm fine, Mr. Chair.

**The Vice-Chair (Mr. Phil McNeely):** Okay. We will go now to the official opposition and Mr. McDonell.

**Mr. Jim McDonell:** I can see now some of the value of moving these committees around and this area being chosen by us.

Now, where should you be? Obviously, the three international distillers, or breweries, are not the place to be. Should you look towards the beer industry distribution, the Brewers Retail?

**Mr. Grant Howes:** With the Brewers Retail, once again, you have to pay to play there. I think if we could form a strategic alliance, for example, with a small craft brewery or a number of small craft breweries that go into areas that we economically can't go into, that would be terrific.

We've been approached—we're paying one company, Premier, which is a very good company, \$30 to deliver our kegs, small kegs. We have small craft brewers that would do it for \$10 a keg. So there's definitely synergism in working together as an industry.

Like I said earlier, we're in 150 bars and restaurants right now—the better bars and restaurants in Ontario, by the way—but we could be in 500. We should not only replace all the foreign junk that's coming in, but we should be exporting too. We were down in Vermont last year and we were picked as the top cider there in a taste panel. So the sky is the limit for Ontario cider. Sometimes I get very frustrated with bureaucrats because they don't get it. Maybe I'm the only person in the world who does get it.

**Mrs. Donna H. Cansfield:** No, we get it.

**Mr. Jim McDonell:** I'm just trying to figure out the justification for the tariff on this.

**Mr. Grant Howes:** While I call it a tariff, it's not; it's a markup. It's the same markup that other foreign ciders have, other foreign wines have. It's a markup that's a lot more than VQA wines or craft beers have to pay.

**Mr. Jim McDonell:** So it's obviously something that needs to be looked into.

**Mr. Grant Howes:** Just a level playing field would be terrific. Not only that—I mean, I get the fact that the LCBO has to make money. They're making money taking 67 cents on the dollar from me for the X amount I'm selling them. But if I can lower my price to compete with the other cideries that produce 453 million litres a year, rather than X amount, they'd be getting four, five, six X's from me. What they'd lose in that per item sale, they'd make up in volume, for sure.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Just so you know, I'm from Huron-Bruce and my husband's family boasts of a proud German heritage and our fruit cellar had to have room for a barrel.

That said, I'm just wondering: Where do the apple growers fit in here in terms of support? We can hear your frustration. Where do you fit? How are the apple growers addressing this?

**Mr. Grant Howes:** The apple growers are definitely behind us. They're slowly coming around to the fact that they're seeing this as an industry and as a potential value-added product for their apples.

**Ms. Lisa M. Thompson:** Okay, that's what I wondered.

**Mr. Grant Howes:** Not only that, but what's really great is that heirloom varietal apples, such as Northern Spy, such as McIntosh—all the apples that grow really through all the apple areas of Ontario—make world-class ciders, and they get that. Plus, they don't have to be sprayed as much because it's a temperate fruit; it's made to withstand the humidity. We don't have the problems with powdery mildew. We don't have to spray every six days.

**Ms. Lisa M. Thompson:** Very good. So there is potential there in terms of synergy.

**Mr. Grant Howes:** Huge potential, yes.

**Ms. Lisa M. Thompson:** Okay. Very good.



I'm just wondering if you have any other ideas. You mentioned, earlier on in your presentation: Where do we go from here? Is it finding that support network? Is it—

**Mr. Grant Howes:** I think it has to come from the small group of Ontario cider producers. We do have an association now; we just got incorporated this year. We've had our inaugural meeting, and we're probably going to have another meeting fairly soon to see where we want to go. Of course, we'll definitely be in touch through OMAFRA and that sort of thing.

We don't really require a lot of money; we just require a level playing field with the other producers of alcohol in the province.

**Ms. Lisa M. Thompson:** Thank you so much. I appreciate your passion.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Smith.

**Mr. Todd Smith:** Grant, I didn't know you were coming today. Good to see you.

**Mr. Grant Howes:** Neither did I.

**Mr. Todd Smith:** And you do have a fantastic product; there's no question about that—world-class.

The transportation issue, though, is a bit symptomatic of a larger issue when it comes to the craft brewery association as well. Have you talked to the craft brewers? They face similar hurdles when they're trying to get their product onto the market as well.

**Mr. Grant Howes:** I think distribution is definitely a problem. If you can locate your production, though, in a market such as Toronto, where you've got five million people within an hour's driving distance, you don't have the same problem that, let's say, Beau's up in Ottawa does to hit that Toronto market. I guess it's just easing up on the restrictions to that distribution and, like I said earlier, forming strategic alliances with people you know and trust.

**Mr. Todd Smith:** I sit on another committee as well, so I'm just a guest, a cameo appearance, here today. We studied gridlock and the fact that, as you say, it costs a person a whole day just to take your product to Ottawa and get it around, and it would probably take several days to make your way through the GTA to get your product to its destinations and where it needs to go. Have you talked about hubs or distribution hubs? Is that a possibility, so that the independent breweries and the craft brewers and ciders work together?

**Mr. Grant Howes:** Yes, I think a hub would be wonderful. But then again, we have these hubs in place already: They're called urban brewers. I'm familiar with Great Lakes Brewery on the Queensway. They do some bottling for us and they have a lot of excess capacity to inventory not only our kegs but other kegs, and they are doing it. The breweries—and I don't know if it's legal or not—are delivering other product for each other and they are working together. Let's face it: It's Molson and Labatt that are the bad guys here.

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**Mr. Todd Smith:** Yes. So how many people are working in the cider industry in Ontario?

**Mr. Grant Howes:** Right now—I mean, cideries come and go, but I know of at least seven other ones that have started up and are not as advanced as I am, but they are seeing the problems that I have faced for the last 15 years. We definitely want to address those, because to grow the industry where we see it growing, we don't need much. We really don't.

**Mr. Todd Smith:** Thanks, Grant.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson, do you have a question?

**Ms. Lisa M. Thompson:** Yes, just one follow-up: You mentioned Beau's; that's from Vankleek Hill?

**Mr. Grant Howes:** Yes.

**Ms. Lisa M. Thompson:** I've tasted that once or twice before. So you have a relationship there whereby, if you were allowed, you could partner with them, per se?

**Mr. Grant Howes:** I guess my relationship with them is that I really like their beer and they like our cider. A better example for us would be Barley Days Brewery, which is in Prince Edward county. I'm delivering to Toronto and they're delivering to Toronto, and we can't share costs. We can't reduce our carbon footprint.

**Mrs. Donna H. Cansfield:** It's ridiculous.

**Ms. Lisa M. Thompson:** Isn't that ridiculous?

**Mr. Grant Howes:** Yes.

**Ms. Lisa M. Thompson:** Okay. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much. Thank you to Mr. Howes for that excellent presentation.

**Mr. Grant Howes:** Thank you so much for your time—

*Interjection.*

**The Vice-Chair (Mr. Phil McNeely):** I'm sorry. I'm trying to get back to Ottawa, I guess. Sorry about that. Miss Taylor.

**Miss Monique Taylor:** I don't have many questions. Thank you very much for being here, especially at the last minute, and for bringing your energy to this table. It's definitely something where we all see that there's an obvious problem. I'm still trying to wrap my head around it. So the biggest issues are with you being able to get out to the distribution, right?

**Mr. Grant Howes:** Well, there are two issues. There's the markup the LCBO takes—

**Miss Monique Taylor:** Which is 67%?

**Mr. Grant Howes:** Roughly 67%, versus whatever the VQA markup is and whatever the craft brewery markup is. My contention is that if we could have that same markup, it'd be fantastic, because we'd reinvest it in greater production, greater marketing and more sales through the LCBO and more money for the LCBO.

**Miss Monique Taylor:** And how many areas are you actually distributing to?

**Mr. Grant Howes:** Well, we're in Ottawa; Prince Edward county, of course; Toronto all the way to Mississauga; and all the way to Kitchener and Hamilton.

**Miss Monique Taylor:** Hamilton? Good. I'll have to look for you on my shelves.



**Mr. Grant Howes:** Yes, through the LCBO, and then we're, like I said, in about 150 bars and restaurants through our licensees.

**Miss Monique Taylor:** Okay. Do you find that a good channel for you to be going to is direct to the licensee? Is that your best channel?

**Mr. Grant Howes:** No, our best channel is probably our tasting room in the summertime. But to have a business that's a year-round employer, we need to get over these tariffs, right? So if we get a reduction at the LCBO—just a level playing field at the LCBO and a better way of distributing our product to licensees, without being deemed a foreign product, that would be great.

**Miss Monique Taylor:** Right. And you were saying that you're figuring that only 15% of your crop is actually, probably, going to survive this year?

**Mr. Grant Howes:** Well, I am very, very lucky in that my farm is right by the lake, so my farm was moderated. Plus, I grow a lot of the older varieties and cider varieties that I've propagated over the last 15 years. These are rare varieties from England and from France. A lot didn't survive in the early days, so the ones that did are winter-hardy and don't come out of dormancy like the newer varieties, such as Gala and all these other ones. So I'm very lucky in that I have an average crop this year. But the apple industry is devastated. There's going to be people declaring bankruptcy this year. It makes me sad.

**Miss Monique Taylor:** That's very sad. We all love Mother Nature so much until she turns on us. It's kind of scary.

Do you have any questions?

**Ms. Cindy Forster:** I don't have any specific questions, but if you want to use the rest of our time to continue telling us about your industry, you're welcome to it.

**Mr. Grant Howes:** It's okay.

**Miss Monique Taylor:** Thank you very much again.

**Mr. Grant Howes:** I just, once again, would like to thank Lynn at PECWA. I should mention PECWA. I was one of the founding members of PECWA, along with Debra Marshall. We all have worked so closely and so hard together to build an industry where we're one of the bigger employers now in Prince Edward county. We have tourism there that we never used to have before. Our relationship with the wine council and with the VQA—although sometimes it's a bit tepid, we all do get along and know that we're all in it for the long run. And farming is for the long run. I'm talking about not only my son taking over, but his kids and that sort of thing. These are not short-term things.

**Ms. Cindy Forster:** Thank you very much.

**The Vice-Chair (Mr. Phil McNeely):** Thank you again, Mr. Howes.

This concludes the stakeholder portion of this review.

## LIQUOR CONTROL BOARD OF ONTARIO

**The Vice-Chair (Mr. Phil McNeely):** We'll now invite the LCBO to present. Mr. Olsson, Mr. Peter, please come forward. Again, like Monday, you will have 30 minutes for your presentation, following which each caucus will have 30 minutes for questions divided into rounds of 10 minutes. Questioning will begin with the official opposition.

**Mr. Philip J. Olsson:** As Debra said earlier, Mr. Chair, my job has been compared to that of the Leafs general manager occasionally. I just want to tell this panel that I've authorized my agent to see if we can do some kind of trade during the upcoming open period. Certainly, as you can see from a lot of presentations, we have a very good defensive bench, and I think we could be of great assistance to the Leafs.

One of my jobs as chair—because I don't work for the LCBO; I'm appointed by the government and report to the minister—is to always ensure that we don't presume on monopolistic practices when they're not in the best interests of the people or the government, and for that reason, meetings such as this are very helpful. I must say, having been involved with the LCBO since 2004, it continually amazes me how many entitlements, inefficiencies and things we dig up and try to deal with.

I would like to mention that the problem with the oligopoly on barrel delivery is something that the board identified last year, and when the current contracts expire, we've asked Mr. Ford to come up with a policy where we can move away from having three historical delivery services, some of which I think we can see are conflicted, to a system where we can do that by open tender, the way we tender for practically everything else. It just encouraged my resolve in that area.

Over the past two days, we've heard from a majority of the stakeholders that the current alcohol retail system works. It gives manufacturers a modern, attractive retail forum in which to sell their products, it maintains social responsibility in the sale of beverage alcohol, reducing social harms that are associated with alcohol consumption, and it generates valuable non-tax revenue for the province.

Because so much of the discussion over the past two days has centred on Ontario's wine industry, my remarks will focus mainly on that sector. However, I'm sure I do not need to remind the committee that promoting a local wine industry is not our only obligation to taxpayers and consumers throughout the province—in wine-growing regions and in other parts of the province.

Only one presenter, the Wine Council of Ontario, yesterday proposed a fundamental change to the current marketplace. While other stakeholders expressed concerns about the possibility of increasing private channels, the wine council proposed a network of private wine stores. I believe that private wine stores would reduce government revenues from alcohol sales. I do not think they are the answer to increasing the amount of Ontario



wines sold. Careful analysis of the business plan, I think, will demonstrate this.

I want to reiterate that growing Ontario wine sales is a key strategic objective for the LCBO, and it's a goal that we take very seriously. The government's priority for Ontario wine is increasing sales of VQA wine, and that is what the LCBO has done. Sales of VQA wine through our stores have more than doubled since 2006-07. So far this year, sales of VQA table wines are up 18.5% over last year, despite some impressions you may have gained to the contrary.

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It isn't just the LCBO that's supporting Ontario wine; it's the province of Ontario as well. Ontario wineries benefit from the very generous subsidy programs and tax breaks which successive governments have established and expanded. The government of the day determines how its support for the Ontario wine industry fits into its overall fiscal and economic development priorities. Every government faces tough choices about how to spend its money, which it derives from taxpayers.

This industry receives significant financial support from the province and produces a product which is subject to government regulation. If you add to this the fact that the government owns the largest retail channel in the marketplace, it's pretty understandable why the LCBO becomes a regular and ongoing focus of lobby attention. That's just how it works; we all understand the process. Nonetheless, the confusing message this sends to our front-line staff is unfortunate. That staff, our dedicated employees, are some of the most passionate promoters of local producers and are well aware of our success in growing VQA sales.

Again, despite what you may have heard, the LCBO has successful and productive business relationships with many Ontario wineries, both large and small. If this were not true, there would be no way we could have achieved the sales results which we have. The successful wineries produce wine that consumers want to buy at prices that consumers are willing to pay. They package them attractively and promote them effectively. Alone, and in partnership with the LCBO, they develop new brands and extensions to existing product lines to take advantage of trends. They take advantage of the many promotional opportunities in the LCBO to make sure that consumers are aware of their products. These wineries are successful and profitable.

Not all Ontario wineries are growing their business, but is there an industry in which every business succeeds and prospers? The LCBO proudly does a lot to promote Ontario wine and to raise awareness of the great wine that's produced here, but the industry's success will be limited by the extent to which Ontarians want to buy those wines.

I believe it's safe to say that every single wine region in the world is making much better wine than it did 10 years ago. Lots of Ontario wineries are taking all the right steps to succeed in today's marketplace. But simply putting more Ontario wine on the LCBO shelves or on

the shelves of theoretical private wine stores will not increase sales in and of itself. Private wine stores would create a number of new policy challenges. Beer and spirits producers could not be expected to passively accept an increase in the number of points of sale for products against which they compete, and private store operators have an incentive to sell those products in order to compete for customers. This would increase the loss of government revenue to private operators and result in less effective control on the market in the area of consumption.

The unequal treatment of domestic and imported wines gives Canada's trading partners grounds for complaint and a trade challenge because of the unequal markup treatment. I know that wineries note that BC is getting away with this, and it is true that there hasn't been a trade challenge to the BC system, but if both Ontario and BC discriminate against imported wines, there is just that much more incentive to launch a challenge. I would remind the committee that unequal markups are exactly the issue on which Canada was taken before a GATT trade panel in the late 1980s, and the loss of that trade challenge forced all provinces to restructure their wine industry and industry supports, at great cost to the government and producers.

The government has a strong wine and grape strategy in place. It's a strategy that builds on previous government and industry measures to build up this important sector of the Ontario economy. The LCBO remains committed to supporting that strategy and to working cooperatively and productively with Ontario wineries to fulfill it. On that topic, I have to note that I think the current split in the wine industry between the wine council and the winery and grower alliance is not in the overall interest of the industry. The LCBO would prefer to work with a unified voice for the industry.

I'm going to turn the floor over to my colleagues, beginning with Bob Downey, to address some of the specific comments raised by a number of the stakeholders over the past two days.

**The Vice-Chair (Mr. Phil McNeely):** State your name for Hansard, please.

**Mr. Bob Downey:** Good afternoon. Bob Downey.

First, I'd like to congratulate the folks from Prince Edward county on the success that they're experiencing. We feel that they have a really great story to tell. It has got huge potential, we believe, for growing great grapes and producing fantastic wines. In that spirit, coincidentally, we have a number of buyers coming down tomorrow and Friday, and they're visiting eight of the Prince Edward county wineries. They're looking for more products to purchase for our stores, so we're very excited about the potential for Prince Edward county.

I thought I would start off by reading a letter. We got a few letters sent to us prior to this meeting from wineries, knowing that we're appearing before you. This letter is from John Howard of Howard Equities. You may be familiar with his wines, John Howard Cellars. He has a very popular brand called Megalomaniac.



"Howard Equities is a sole proprietorship which holds a 100% interest in two Niagara vinifera vineyards, comprising approximately 120 acres and a 12,000-square-foot underground cellar, producing 20,000 cases of VQA wines annually on the Niagara Escarpment, in the village of Vineland. As well, HEI holds a 35% shareholding in two grand cru châteaux in the Saint-Émilion appellation of Bordeaux, France.

"HEI is a former proprietor of Vineland Estates Winery and took the project from 55 acres producing 2,500 cases per year to 300 acres of developed vineyard with a production level of 65,000 cases in a nine-year period.

"The Megalomaniac brand was launched as a retirement project, but specifically to fund a foundation, of which I am a founding member, called Kids' Health Links.

"Our objective from the outset was to introduce a value-added and uniquely branded VQA product. It is generally argued that less than 15% of consumers entering an LCBO retail outlet actually understand the meaning of 'VQA,' and our industry has failed miserably in its execution and development of a brand reflecting 100% Ontario-grown and bottled wines. As well, the retail pricing of a number of Ontario products do not reflect a globally competitive profile.

"It has been our objective to take a direction which was diametrically opposed to those two historical phenomena, with a five-year strategic marketing plan. Our initial approach to the LCBO was through Vintages, where we dealt with Alanna Bailey, Marie Capone and Astrid Brummer. I found the decision-making process here to be fair, consistent, candid and rational. All of the individuals were, without exception, strong proponents and supporters of Niagara and VQA wines and have spent time in the region visiting a wide range of producers. They were knowledgeable, empathetic, enthusiastic and prepared to help producers understand the criteria for shelf space. Indeed, it is due to your combined mentoring that Megalomaniac Narcissist Riesling achieved an Essentials listing in Vintages in March 2012.

"The LCBO was not only critical to the initial growth of the Megalomaniac brand, but has consistently supported our efforts in funding the Kids' Health Links Foundation.

"In the case of the Megalomaniac Homegrown brand, I believe that you took a leap of faith in order to introduce this brand into the general list category. This speaks to the culture of the LCBO, which allows for individual decision-making, as well as your inherent knowledge of the consumer. You had hands-on experience, having operated as a product consultant in the retail system.

"I understand that homegrown has now become the fastest-growing VQA product over the past year, which is clearly a function of your initial gut feel as well as a series of LCBO promotions, which you brought to our attention.

"Our desire to participate in these promotions has been based on creative merchandising opportunity, in many

cases introduced directly by yourself. Our position is that our investment in these promotions is money well spent, particularly as it relates to the quality of the promotions to date and their impact on our sales for the specific periods. Although I have no comparative, I would wager that these promotions are far less costly to us as suppliers than other conventional consumables suppliers who might use channels such as Loblaw's, Shoppers Drug Mart, Costco and Home Depot. In point of fact, we are currently evaluating the feasibility of abandoning our existing agency relationship in order to realign these budget costs directly to LCBO promotions and in-store tastings.

"Over the past 20 years, I've been asked many times by those inside and outside the industry what the most critical element might be in growing our market share. Lately, my comment has been that we should be graduating fewer winemakers and, instead, more people with marketing and sales expertise.

**1500**

"Our five-year strategic plan, initiated in 2008, advanced a number of objectives. However, two of the most important were the following: Listen effectively to your customer base on the criteria necessary to be successful in each of your distribution channels, and achieve a minimum of \$1.5 million in revenue through the LCBO channel within five years.

"These results would not have been possible without the Homegrown brand and your support and encouragement. Based on this history and our performance to date, we are enthusiastically preparing for our next launch."

So that is symptomatic or indicative of a number of the letters that we received indicating how much some suppliers appreciate our support and how they value the nature of our channel.

I also want to take the opportunity to talk about some of the assertions that were made on Monday about the Ontario wines' lack of competitive advantage. As Mr. Olsson stated, Ontario wines is a key strategic objective for the LCBO, and it's a goal we take very seriously. It's also a goal that LCBO employees fully understand and proudly support, down to the store level. Our remuneration of management is tied to the achievement of the agency's strategic goals, and this is a very important one for us. Every year, the board determines how well the agency has done in meeting those goals. This directly affects our management compensation.

The government's priority for Ontario wines is increasing sales of VQA wine, and that is what the LCBO has done. Sales of VQA wine through LCBO stores have more than doubled, as you've heard, since 2006-07. So far, sales of VQA wines this year are up over 18%. This is a great success story. There are not many industries that can match this kind of performance, as was stated this morning that the KPMG study indicated. So there's a lot to be proud of in the industry, and we're very proud of our role in achieving that success.

I also wanted to use the opportunity to clarify some of the assertions about the cost of promotions at the LCBO.



Some of our key promotions have, in fact, not increased since 2010, the most popular ones being the cost of limited-time offers, the cost of end-aisle participation and the cost of shelf-extender participation. There have been some new programs introduced, and these are optional programs to participate in.

I also wanted to take the opportunity to highlight some of the key supports that we provide to the industry. These include things like free freight for delivery. Import wines must pay for their freight, which is then in turn marked up. Ontario wine is not—we don't charge them for freight and it's not put in the pricing formula. The licensee discount is 10%, versus imports at 5%. The share of space far exceeds the share of sales, as you were told again on Monday, by over 16% over the past five years. The estimated value of that is around \$15 million. And we have a dedicated buying team as well, solely focused on Ontario wine—category manager, product manager and administrative support.

Two key promotions: We have our annual period 7 promotion, which is mid-September to mid-October every year, focused solely on Ontario wines. No other wine region has that kind of support. In this period, if you were in stores yesterday—in fact, we have an “I Love Canada” promotion going on as well, and it's not just focused on Ontario wines but a broader assortment of domestic products as well. It's a very exciting promotion; it does very well.

So lots of focused promotions and lots of focused support for Ontario wines.

I wanted to talk a little bit as well about the channels of distribution. We are not, indeed, just a big-box retailer. We have a wide range of store sizes. They range from as low as 500 square feet to over 30,000 square feet. Within those stores, Ontario wines are given the best real estate and they are also given special fixture treatment to stand out from the rest of the store. They're at the front of the store. They are very easy to see when you walk in.

We also have six stores where we have a best-of-Ontario format, and again these have special display features and special treatment. They have the full assortment of Ontario wines. They are in three stores in St. Catharines, one in Kingston—which I believe has a good focus on Prince Edward county wines—Burlington, and there's soon to be one in Windsor that will have a focus on southwestern Ontario.

Our store expansion plans are very ambitious, as you know. We're opening 70 new stores in the next two years, the largest expansion in our history. Ontario wines will increase their shelf space by over 20,000 linear feet, which equals 40 wine stores on average, and purchase of Ontario wines, we estimate, will increase by \$3.5 million over the next two years to support that extra storage space.

We also have a number of programs that are targeted to support small wineries. The Go-to-Market program has been very successful. I can give you an example of a winery located in Prince Edward county by the name of Sandbanks. Four years ago, Sandbanks wasn't on the

map. Now it's the number nine Ontario winery in the province. They're a small winery that has shown that if you work hard in the system, if you use the programs that are available, you can be very successful.

We also have the Wines to Watch program, which was formerly called the craft winery program, which is a graduated program available, again, to small suppliers, where, over a three-year term period, there is a program laid out that will ultimately, if successful, allow you to graduate to the general list. This has been used successfully by a number of wineries as well. Our local talent feature in Vintages is also a showcase for particular Ontario wines as well.

The wine council concerns, I know, were focused on Vintages. We believe now that the way we structure our Ontario wine team, where it has responsibility for Vintages as well as the general list, will actually result in strong Ontario wine sales across the channel. That will be both channels' vintages in the general list, but our goal is to give more exposure in general and actually to improve the assortment in the general list side on the premium wine category in particular.

We think there are really good opportunities for Ontario wines to increase their sales in Vintages, particularly over the \$20 price range. So far, Vintages sales are up almost 20% this year, which I think is reflective of the focus we're putting on that channel. I want to also clarify that although most wines are purchased just once a year in Vintages, the essentials category, which recently expanded for Ontario wines, is available year-round.

But there is no barrier to large purchases of Vintages wines. If it's going to sell, we will purchase it. But it has to be of high quality and deliver great value.

Thank you.

**Mr. Bob Peter:** Bob Peter. Just a couple of comments on Ontario wine opportunities: Besides the LCBO, as we've noted, the Ontario wineries have their own store network, which does over \$230 million, and most of those are near the GTA. They have direct delivery, which does \$46 million in business, and most of this business has come out of the LCBO over the last number of years. It started out as only a \$2-million opportunity; it's grown to \$46 million and continues to grow. The Ontario wineries are the only ones that have the opportunity to sell direct in the province, through the Internet, to customers, so that's another unique benefit they have.

Having travelled the world and seen wine regions everywhere in the world, the most successful ones, without fail, are all export-driven. Unfortunately, this is not the case in Ontario. Part of the problem is, your tax policy works against it. You're rewarded to sell in Ontario. You get the best tax breaks here. Quebec is the largest wine-drinking province in Canada by far, bigger than Ontario, and the penetration of Ontario wine is next to zero; there's about 10 SKUs there in the whole province.

One of my big pushes with the wine council is, “You guys have to get out. You've got to get marketing.” We had all the liquor boards here last June in Niagara to see



these people. I'm not suggesting they're all easy to work with, but there's a huge opportunity within Canada that's not being exploited at all. A lot of the wines that are being sold with Ontario wine content are the blended wines, not necessarily VQA.

*Interjection.*

**Mr. Bob Peter:** Yes. Another point, as was mentioned on Monday: The largest portion of wine selling is under \$11. That's where the market is. Where VQA is selling is between \$11 and \$15 or \$16. They're competing in a much smaller segment. It's a lot harder to achieve their numbers. The volume is much lower. That's one point.

On the presentation made yesterday on the private wine stores, I just want to clarify a couple of things that weren't stated in the presentation; at least, I didn't hear it. For them to open private wine stores, they have to sell imports. They didn't state that. In their model, they're projecting they'll do 85% of their sales on import business.

**Interjection:** Could you repeat that, please?

**Mr. Bob Peter:** Yes. I said, in their model that they've proposed—the wine council—they're saying that 85% of their business will be in imports, which is probably correct. It's even higher than that in British Columbia. So it's only 15%, potentially, for Ontario wine. What they're proposing is, they would get the tax break for Ontario wine of paying 2% tax, but they would buy from the LCBO at full price the imported wine. Well, I can tell you, it's impossible to run a business that way, to pay full retail price.

1510

Just to go back, when British Columbia introduced their private stores, they initially started at a 10% discount. Within the year, they were at 12%. They're now at 16%. What has happened to the total liquor board is that their revenues continue to drop—just so you know that.

So I don't believe it will be particularly good for VQA. They'll get lost in the shuffle. I can tell you, the import wines will dominate.

On British Columbia versus Ontario: British Columbia has 35 grandfathered stores from NAFTA, which are all VQA stores. We've got 292 stores—to the single winery. But we have way more stores than they do. The market share in British Columbia liquor stores for BC VQA wines is 8.7%—and we're quite similar to that in Ontario—but the private wine stores are only 3.6%. People who are in private business are going to sell what's selling.

Just a final point: We have to remember that because the LCBO is a monopoly and it's the only carrier of imported wine and spirits, I serve many, many constituents. All you have to do is drive around Toronto during the World Cup and see all the different flags. If you think we get a lot of requests here for just Ontario wine—which we're all supportive of; don't get me wrong. But the South Africans want more of their wine; the Bulgarians want their wine; the Georgians want their wine. So we're under constant pressure from everybody. We've got an ethnic community from all over the world here

that wants their product. We're trying to meet everyone's needs, and it's not easy to squeeze everybody in the house.

**Mr. Patrick Ford:** I'd like to speak to just one point that I think may have generated some confusion for the committee, and that's the question of: What's the market share that Ontario wine holds in this marketplace? You've heard 29%, 33%, 39%—all this in reference to a 50% market share goal that had been identified at one point in time. The reason why you're hearing different numbers for that is because it depends on what you measure. Is that just LCBO sales? Is that the wine store sales, the direct delivery, the Internet sales that Bob referenced? Are we measuring by dollars? Are we measuring by volume or litres? There are different measures. However, there's a long-standing agreement that has existed between the industry, the government and the LCBO about what metrics we'll use. The focus is on volume, it's on all sales channels, and that currently generates a 43% market share for the wine industry. Over the past decade, as noted by a number of the industry commentators so far, that number has grown slightly but not as much as we would have hoped during that time period.

A key thing to note during that time period, over that decade, is that this industry, in fact, had three crop failures. In 2001, there was what's known as the ladybug taint, which severely impacted the amount of wine that we could sell. In 2003, not unlike what the cideries are facing, we had a crop failure due to a late winter frost that damaged buds. The same thing happened in 2005. Three of those vintages during that time period severely hampered the production potential of Ontario wine in this marketplace. It has really only been in the latter half of that decade when we started to pick up steam and to get the kind of 100% growth of VQA wines that you've also heard reference to: since 2006-07.

All that aside, though, it's the LCBO's strong view that market share is not the metric that we should be using for measuring performance and success and growth within this industry. To Bob's point about seeing all those flags on the cars during the Euro Cup on the Gardiner right now: In order for us to achieve rapid growth towards 50% or whatever kind of market share, we would have to restrict, remove, reduce the sale of the wines that those customers want in our marketplace. Our view is strongly that instead what we should be measuring is the absolute growth by dollars—in other words, that's focusing on premiumizing, selling more 100% VQA wine—instead of solely basing it on market share. Through recent discussions with the industry and with the government, there's a consensus that our focus should be on absolute dollar sales growth, rather than worrying about whether or not imported wines are popular at this stage.

I'll turn it over to Rob Dutton.

**The Vice-Chair (Mr. Phil McNeely):** You have one more minute.

**Mr. Rob Dutton:** Okay. In that case, I can't go on about all the fascinating numbers I've heard. It's one of



the interesting things about being the finance guy: So many of these numbers coming from various sources come with such adventure and imagination.

On the question of the ad valorem markup option that was suggested to you by one of the Ontario wineries: The interesting thing about that option is that it would devastate VQA wine and it would benefit the very inexpensive wines in the marketplace. So it would benefit the ICB—international Canadian blend—wine that's inexpensive, and it would also benefit all those imported wines that are inexpensive. The wines that it would not benefit, that it would actively damage, are the very wines that we want to encourage, the VQA wines.

On the issue of the number of forms that Ontario wineries have to fill out, I sympathize. Most of the information that we collect is for AGCO and for the revenue group of the Ministry of Finance. We are currently working—because my staff take a great deal of their time processing that information—on slimming down those forms for the wineries. I think we'll have some good news in a month or two for them on that front.

I've been told I can't go on any longer.

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much for the presentations. We'll start with the official opposition and Mr. McDonell.

**Mr. Jim McDonell:** There's some discussion about delivery charges, the direct deliveries. Wineries are allowed to deliver directly to licensees but they can't charge a delivery charge, whereas that's incorporated in the LCBO. Is there any background to that or is that—

**Mr. Rob Dutton:** I think the criticism was that the delivery charge that we did pay for did not compensate them to the level—and I think the number I heard was \$15 a case, which is quite incredible, given the fact that I can take a case of wine from France to Ontario for \$4. So my first reaction there would be to wonder who is handling the cartage. But I think that complaint was simply that that particular winery had extremely expensive cartage costs and we only covered it to a certain standard degree based on our own freight.

**Mr. Jim McDonell:** They aren't allowed, in my understanding—or they're restricted in setting up distribution centres. For instance, for wineries from this area that deliver to the Ottawa area: It would probably be preferential to have some type of distribution centre, but that's not something they're given access to or allowed to set up themselves with their association. Are they licensed somehow there?

**Mr. Patrick Ford:** First of all, as Mr. Olsson announced and mentioned at the beginning of his remarks, as it relates to the cider issue, the keg distribution, at the board's instruction the LCBO is currently—my team, actually—looking at a review of the authorizations that are given to the private companies that assist with that keg distribution to ensure that there are better, more economical opportunities, in particular with a focus on cider. We've also recently had discussions with the Ministry of Finance in that regard.

As far as other distribution, including the direct delivery of VQA and other wine and what the rules are that are allowed, it's my understanding that the Ministry of Finance, as well, has been in discussions with the wine industry about their concerns and their interests in that regard. That's under review at this stage.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Earlier today, we heard some angst from our OPSEU folks during their deputation. They don't agree with the LCBO's approach to agency stores. In your business plan, do you see a future for agency stores? And then I have a follow-up question.

**Mr. Philip J. Olsson:** I'd just like to emphasize a couple of things. One thing was corrected. Statistics were presented to show that agency stores have grown under the current government. While the agency stores have grown under the current government, no new agency stores have been approved by the current government. They were all approved in advance of this government. So we're not expanding the system.

I think there are two points that I'd like to make, and we can go into some numbers here.

Number one, we were characterized as agreeing with OPSEU's consultant on his conclusions. That's not true—or not correct, I guess, is a better thing to say. We agree with his arithmetic, but the assumptions assume a number of things. I noticed he didn't answer the question this morning, "What about beer sales?" Because we have no control over those. The analysis assumes that we would continue to capture all the beer sales in those agency stores were we to privatize them. That's highly unlikely. In fact, it's absurd to even think that, because the Beer Store have the right to open a Beer Store wherever they wish. So the analysis that suggests a very large number of agency stores would be profitable if we repatriated them to an agency model doesn't really hang together.

1520

You have to ask yourself: If there's all this money on the table, why wouldn't we do it? We could just be stupid, and you can assess that. There could be some political motive for keeping it in these agencies. You'd need a pretty sharp stick to find it. I've never found it. Or it's just the most efficient way to deliver services to small communities.

Furthermore, it probably is true that in one or two or maybe even more cases, you would have a store that is profitable. But if you take your capital to build that store in a small community that doesn't really need a full store, well, I'd like someone here to go and explain to the people of Brampton or Milton or other growing areas of the province why we're spending our money there when the need is so great in other parts of the province.

Now, you did hear from us yesterday that the government has allowed us to double our budget. We're doubling the number of stores that we're building, so we'll go further to meet that need. In due course, some of these stores will be repatriated. But I would advise you to



ask yourself: If these numbers are there on the tree just for plucking, why haven't we done it?

**Ms. Lisa M. Thompson:** Okay.

**Mr. Bob Peter:** If I can just have one comment: Just to correct the record, our agency stores do about 2.4% of our total sales in the province—not 10%, but 2.4%.

**Ms. Lisa M. Thompson:** Thank you for that. I come from a small community and I find it interesting. I've actually been approached by a local municipality that has some angst being expressed by the small community. They're looking at facilitating a permanent licence for one of their halls in a small village, and if they do that, that would mean they would no longer be able to purchase the alcohol required for that hall from the agency store, with a permanent licence. They would have to travel a fair distance to fulfill their alcohol needs to maintain the hall.

I just wondered: Is there any wiggle room there? Because again, small communities are suffering. This one village I'm talking about in particular just lost its public school, which is an economic driver, and now they're being told that if they put in a permanent licence, they have to travel out of town and take business away from their community. So I'm just wondering: Is there wiggle room there? Is there flexibility? Or is that an olive branch LCBO is offering to their larger stores? I'm just wondering.

**Mr. Patrick Ford:** First of all, the agency store model was put in place now 50 years ago to provide a convenient access for local service. To your point, that's a key objective. I'm afraid I'm not certain of the specific rules for deliveries to licensed establishments here, so we'd have to go back and confirm that. I do understand, however, for sales of beer to a licensed establishment, that the vast majority of those, by marketplace rules, need to come from the Beer Store. They would be the sole seller of 12s and 24s, the larger, more common formats for a licensed establishment. But we can certainly get back to you with respect to what restrictions there are in that area and whether or not there's flexibility, if there are restrictions.

**Ms. Lisa M. Thompson:** I would really appreciate that. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Mr. McDonell.

**Mr. Jim McDonell:** One of the issues we heard today was small wineries getting access, and I know in any store—it doesn't matter how many you have—you're going to have limited shelf space. Any recommendations on how you could help some of these or maybe change the system? We heard today the possibility of a regional store tied to tourism or something that would allow some type of access until the market share gets built up. And then, of course, you're really a larger distributor and you really have to pick the most popular brands. That makes your consumers happier and it is, overall, good for the industry. But is there some way of pairing both of those together, or some recommendations?

**Mr. Bob Peter:** There's no easy way, but I suppose one of the big opportunities is, with the expansion over

the next two years of our network, we're building a lot bigger stores. You weren't here on Monday when I was speaking, but one of the problems we faced is that we inherited from our predecessors stores that were built primarily to sell spirits. Since that time, we've gone into the beer business and we've gone into the wine business in a big way, vintage business, so we need a lot more space to house these businesses. Ontario wine has grown fairly rapidly over the last 20 years, so we're in the process of making much larger stores which can accommodate them, but we still have a lot of stores, even in Toronto and Ottawa, that are very small to house these assortments. As we put them in, as Bob Downey said, I think the shelf space is going to grow nearly 30% over the next three years. That will be the main way that they'll get in the building.

**The Vice-Chair (Mr. Phil McNeely):** Time is up for the 10 minutes. We'll go to the third party and Miss Taylor.

**Miss Monique Taylor:** Thank you for spending two full days with us and taking the time out of the great work that we've definitely been hearing that you're doing. It didn't seem to matter who was at the table; they were all praising the great work that the LCBO was doing. Congratulations for that, because that is definitely not an easy task and, quite honestly, not really what I expected coming here and having to have you before us, so I'm very pleased to hear the great work that you're all doing.

I did visit the store here in Trenton yesterday and, of course, the person who I was speaking with had no idea who I was at the time and I was asking them how their experience was in working for the LCBO. They were very pleased with the way that things were being done, with the way that the board was running things, with the way the presence of the store is. I'll tell you, the first thing that I walked in to was "Buy local; buy Ontario." It was all highlighted exactly the way that you said it was, and it put a different aspect on going into the LCBO store. It was enjoyable. And I bought some great Sandbanks local wine while I was there.

One of the things that I heard from the Ontario Vinticulture Association the other day was that they sell cranberry wine, and the wine was on the shelves for Thanksgiving but completely sold out before Christmas. I guess the actual store wasn't able to order more of that wine before Christmas. If there's a need there, especially cranberry at the festive time of year, why is it that they wouldn't be able to order more of that wine?

**Mr. Bob Downey:** I can answer that.

I actually went back to talk to our buyers after Monday and asked about that particular wine. Yes, indeed, it did transpire very much that way.

I'm not sure whether the supplier applied for an on-going listing or not, or just a regular Vintages listing, but that being said, we will review it and look for an opportunity to have it year-round. The initial impression was perhaps that there's a really good chance we can make



that happen. Cranberry wine, in general—we do have one available from Muskoka Lakes year-round, as well.

On the fruit wine issue, we are also in the process, interestingly enough, of creating a program to move the fruit wines next to VQA in the store. That was one of the problems that was highlighted, the location of fruit wines in the store. We filled it by moving it close to the rest of the Ontario wines that will really benefit the category. Hopefully we'll see some positive results.

**Miss Monique Taylor:** That's great. Also something that we noted when we were in the store was, yes, the local was first and foremost but it was also the two shortest rows in the store. I understand the concept. I really get it, and I really understand the concept of other people from other parts of the world who just want their wine here too, because we're Canadian and that's what we are. We're culturally diverse and we have to be able to supply everybody's needs and wants. That's what makes Canada a wonderful place to be, right?

I believe 26% is what we're sitting at on the shelves. Is that correct? Twenty-six per cent of Ontario wines are on our shelves?

**Interjection:** Twenty-nine.

**Miss Monique Taylor:** Twenty-nine?

**Ms. Cindy Forster:** Market share.

**Miss Monique Taylor:** Market share.

**Interjection:** Yes.

**Miss Monique Taylor:** Okay. And the goal was 50%, right?

**Mr. Bob Peter:** Bob Peter. That goal was set in 1999 and it's an impossible—I could get you 70%. Just stop buying every import.

You've got to remember that I've been tasked with delivering another \$100 million this year, and the finance minister has added \$100 million to that and another \$100 million the following year. We have to continue to keep selling.

1530

On Ontario wine: It has more than doubled in space in the stores, if not more. We spend, of all the categories, probably triple the time with Ontario wine, managing it, dealing with the different associations. It's the most time-consuming. We've made progress. It's the only area we send our staff down to the wineries to visit, to learn about it and to taste and so forth, at great expense. If we spent as much time on spirits, on beer and on imported things, maybe our sales would be even further up. Bob spends an awful lot of time managing it. It's a complex group. There are a lot of people who are new in the business, who need hand-holding, who are just getting started. There are a lot of people who are doing very well. But as we said on Monday, the 80/20 rule applies: 20% of the SKUs are delivering 80% of the sales. If the industry is going to grow, it has to get outside of Ontario.

**Miss Monique Taylor:** I'm thinking, after sitting around this table for a few days, that we need Costco-sized LCBO stores on every corner to be able to fulfill everybody's needs.

**Mr. Bob Peter:** Unfortunately, there's another committee that reviews us, which is Deloitte, and they want to make sure we're always being productive. So I've got to make sure that productivity is in the stores at the same time.

**Mr. Philip Olsson:** I would just like to re-emphasize a point that has been made. I don't work in the LCBO; I'm the chair. We've got to face a fact, and the fact is that the government has put almost innumerable programs in place to help an industry mature. There's a very large subsidy. I don't care to give the number out because it's very trade-sensitive. One of the consequences has been that it is so easy and profitable to perform in this market that we've failed in our very first objective, which was to create a globally competitive industry, because they don't export. They don't even export to Quebec.

As someone here on the panel said, sometimes people need a little shove. We accept that. We get shoved a lot. Maybe you just need to shove the industry a little bit—personal opinion.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Forster.

**Ms. Cindy Forster:** Do the other sectors, the distillery side and the beer producers, get subsidies from the government to the extent that the wine industry gets subsidies or tax credits?

**Mr. Bob Peter:** Not that I'm aware of, in the spirits. The beer has a flat tax. The difference in a flat tax is, you get the same tax whether it's a \$5 bottle of beer or a \$10 bottle of beer. That's all the government collects, so they're making a fair bit of money on that basis.

**Ms. Cindy Forster:** The cider producer who was here today talked about the 67 cents on the dollar that he is charged. Can you expand on that? How does he get to be deemed as either an importer or as a foreign product when he's actually growing apples in Ontario, using those apples and making—

**Mr. Rob Dutton:** It's an excellent question. I don't know the answer either. His markup is actually 54.6%, which is six points lower than the imported markup on cider, and that's if he's selling it in either cans or bottles in our stores. If he's selling it as draft, it's 40.4%.

The interesting thing is, he kept saying he wanted to be treated like a VQA wine. Well, if he really wants, I can charge him the higher markup, but I don't think he'd be happy with it. VQA wines are marked up at 60.5%, and they also have a fairly substantial bottle levy of upwards of \$1.62 per litre. So there's a much higher tax load on Ontario wine than there is on Ontario cider.

**Ms. Cindy Forster:** Back to the agency stores: Are the agency stores that currently exist across the province subject to all the same rules as the LCBO with respect to their standards, the policies, the staff training, all of those kinds of issues?

**Mr. Patrick Ford:** There is a requirement, as a condition of our authorization of the agency stores, that all staff who work in those stores have to have an amount of training that's focused on socially responsible sales. Is it the same, is it as extensive as what we provide for our staff? No, but it does meet a minimum criteria.



**The Vice-Chair (Mr. Phil McNeely):** You have used up all your time, so we'll go to the government.

**Ms. Cindy Forster:** Oh, really? We ran out of time? I don't believe it. That's okay.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Jacek.

**Ms. Helena Jacek:** Well, you have cleared up a lot of issues. I've been ticking off the questions as we've been going through and listening to the other parties' questions.

I'd like to just go back to the amount of discretion that the local manager has in terms of what's on the shelf, because you've talked about diverse communities and so on. Just outline for me, if you would, how this works. How did Trenton decide to do what they did with Prince Edward county, as an example?

**Mr. Bob Peter:** How we set the assortments up is, the stores are given 60% of a core assortment and they have 40% that they play with. And we have a system that shows them what's selling in all the greater area around their marketplace, so they can see what the larger stores are doing and they get to draw down the items that they want. Then you have the trade that calls upon stores, making pitches when they're launching new products and so forth. So people who have good sales forces get out there and get their products listed. There's a fair bit of discretion.

As I said on Monday, there are huge variations across the province; what sells in Thunder Bay is very different than what sells in Ottawa or what sells in parts of Toronto. We try to profile the assortments to the best of our ability. If you go into a store in Little Portugal in Toronto, they want to talk about getting more Portuguese wine. They can't get enough of it. If you go into another store, they want more cellared-in-Canada wine. There are big variations.

**Ms. Helena Jacek:** So there's obviously the opportunity for local wineries to go and visit the local stores and put their sales pitch and approach them that way.

**Mr. Bob Peter:** Yes.

**Ms. Helena Jacek:** Okay—

**Mr. Bob Peter:** But we do have a policy of one in, one out. We have a real discipline. So a store is given whatever number of SKUs; the shelves are all measured in planograms. They're given that—say it has 1,500 SKUs. They're monitored constantly, and a report is sent out; if they're 15 over, they have to eliminate 15. That keeps the portfolio moving, so that you get the slowest sellers out and put the best sellers in.

**Ms. Helena Jacek:** Right. Okay.

Now, one thing that the gentleman from MADD referenced—and I'll put my public health hat on for a minute. He talked about low-percentage alcohol products promotion. You've detailed many of the different—"I love Canada" at the moment, the whisky month and so on. Has there been any thought of really promoting low-alcohol products?

**Mr. Bob Peter:** We have promoted the low-alcohol beer products, and they've had limited success. A lot of people don't get a buzz from 3%.

**Mr. Bob Downey:** Yes, actually it was quite interesting to hear Mr. Murie talk about that. We don't have a lot of low-alcohol beers, for example. We do have some that are between 3% and 4%, but he was talking about beers under 3%. We will investigate and look for some of those products to see if there is more opportunity than we're currently exploring right now, but we just don't have a mass of low-alcohol products that we could do anything meaningful with.

**Ms. Helena Jacek:** And then, you have referenced the subsidies, how the LCBO supports the Ontario wine industry. We've sort of heard pieces here and there. Could you give us a list of all the ways that this is done? Just so we have some general categories of subsidies.

**Mr. Philip J. Olsson:** I will ask Bob Downey to enumerate that, but I'll have to tell you, we do have a time limit so we may not get through the entire list. Bob?

**Mr. Bob Downey:** I did touch on some when I first spoke. I can give you a partial list here, or maybe I can steal Patrick's whole list.

Our strategic plan, for example: One of our six objectives is to support Ontario wines. VQA direct delivery is something that wineries have that other categories don't have—

*Interjections.*

**Ms. Helena Jacek:** That's worth some \$46 million?

**Mr. Bob Downey:** Yes.

Freight costs: I mentioned that we don't charge for freight.

The licensees' sales discount: 10% for Ontario wine, 5% for import wine.

Duty-free markup reduction: Ontario wines sold through duty-free stores incur only a 10% markup rate, as opposed to 15% through land border point sales, and even a higher markup rate on Pearson sales. So they have preferential treatment in the local duty-free stores.

**1540**

Ontario wine dedicated buying teams: We have a focused buying team only on Ontario wine. No other region has that.

In our stores, we have 327 stores with what we call WOW leaders, World of Ontario Wines leaders. These staff are specially trained. They're designated solely to support Ontario wines, so they're real advocates for Ontario wine. They're very passionate about it. We've also set them free to go down to the wine council, as guests, to visit Ontario wineries in the wine regions to expand their knowledge even further.

We have a number of exclusive marketing programs. There's our Superstars program, which is a feature of three Ontario wines every month. We also have local features for Vintages products, for Ontario wines in the Vintages release, every release. The Wines to Watch and the Go-to-Market programs are specifically targeted to small Ontario wineries, to give them an option. Again, import wines don't have that opportunity.

We also have for our ICB wines a Popular Pick program that's put into a number of our C and D stores, which gives a feature promotion spot for ICB wines.



We do over-index on our promotion programs. We give Ontario wines more opportunities in promotional programs versus their market share, as well, so they get a greater share of that.

We do a flyer every two periods promoting four VQA wines. That's free of charge for Ontario wines. It goes into newspapers. There's a feature area in our stores for these Go Local flyers.

Although wine fridges are—there's a charge now for participation. That's only 50% of the space. The other 50% is at store manager discretion. We encourage them to use that space for our Ontario wine as well.

Food and Drink magazine has one dedicated Ontario wine promotion every issue as well. The annual period 7 promotion is exclusive for Ontario wines. Our promotion now, Go Canada, includes a lot of Ontario wines as well.

We do have special Taste Ontario wines for Vintages. We have two events a year for those too. These are targeted to Vintages customers, and they're very successful.

Shelf space: We've talked about that, how they're over-indexed, the special fixtures they have in stores, the Best of Ontario format. We've got six; we're going to move to 12 of those. I can go on and on.

Bag-in-box exclusivity is a really big thing. Only ICB wines can produce wines in bag-in-box. That's a very successful format. It's not available to imported wines. That's a big, big category and a big advantage.

That's a lot. It's not complete.

**The Vice-Chair (Mr. Phil McNeely):** The time is pretty well up. You have another minute.

**Ms. Helena Jacek:** Just one quick thing on the hours: I think it was especially in reference to the agency stores, in terms of flexibility of hours in cottage country, perhaps staying open later. Knowing that you are thoughtful people, have you thought about flexible hours in those situations?

**Mr. Bob Peter:** Yes, we do change our hours in the summer up in Muskoka and Haliburton. The stores are open longer, particularly on Friday nights when people are travelling up there. We do change hours in the winter in a lot of the small communities. We may even close on Sundays in some very small communities. We do shrink the hours down to the pace of business.

In the case of the agency stores, some of them are open longer, until 10 or 11 o'clock at night. It's very hard, given the size of the store, to hive off the little area for spirits and wine in there so you can't shop in there, so we allow them to go that extra mile. But the reality is, we sell all of the liquor they sell from our store to their store. Other than the 10% they earn on it, that's all they get. So we're still selling all the liquor indirectly to them.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. There's a consensus that there is no need to go in 10-minute segments, but if we just go the same order around the table with individuals who wish to ask questions, we'll try that for the next few minutes. Mr. McDonell.

**Mr. Jim McDonell:** We talked about the percentage of Ontario wines being fairly constant or actually drop-

ping. But have the overall sales increased? Is the percentage a higher number? Or has the sales level stayed the same over the last 10 years?

**Mr. Bob Peter:** Our business in 2001 was \$2.7 billion; this year it was \$4.7 billion. So it has grown by \$2 billion.

**Mr. Jim McDonell:** Okay, so they've actually—

**Mr. Bob Peter:** They've had great growth, but the rest of the business has grown, too. But wine has been the fastest-growing business overall.

**Mr. Jim McDonell:** Okay. So actually, in a lot of ways, it's a good-news story.

**Mr. Bob Peter:** Yes.

**Mr. Jim McDonell:** The Auditor General talked about the selection of wines and some question about it. I think the taste had a small portion of the points system. I'm just wondering if you can add any clarity to that or transparency to how you choose one wine over another, especially when we're talking about local wines.

**Mr. Bob Downey:** Yes, taste, especially in relationship to the price, is really critical. It's a big factor in selection, along with things like promotional support, success in other markets and resources—that they're prepared to help support the sales of the wines. Ultimately, that's what counts the most at the store: the price-value relationship in terms of quality. A product that doesn't deliver on that won't survive, which is particularly true in our Vintages channel. Our import suppliers provide their best product to the Vintages team, so value for money is critical.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** I think this question is directed towards you, Bob. Earlier in your presentation, I heard one of your colleagues mention—I think it was you—that some of the most successful wineries around the world are due to their export opportunities. With that said, I can't help but think of other initiatives by the provincial government to help with exports of Ontario goods. I'm thinking of the OMAFRA export branch and the marketing development branch. Do you work with them? Have you worked with them? What's the relationship like there? You're smiling.

**Mr. Bob Downey:** I'm going to pass that question to Patrick.

**Ms. Lisa M. Thompson:** Oh, okay. All right.

**Mr. Patrick Ford:** I won't pass it on further to anyone. Our relationship with the industry relates to the sales of their wine within our region, within Ontario. That's a question that I think is more appropriately directed to the appropriate provincial ministries. As Bob Peter mentioned, that's certainly something that he's been doing, a lot of encouraging of the industry, irrespective of whether or not they get supports from the government on this, to put their own effort behind exporting and making sales into those other markets.

**Ms. Lisa M. Thompson:** Okay, thank you. There is a gap there—no two ways.



**Mr. Bob Peter:** I think it would be a good policy thing for the government to look at; maybe you want to spend a couple of million dollars to support exports and get it going. Just to take the example of California wine: California wine doesn't just sell in California; they sell all over the world. That's the way you've got to think. You've got to get outside of Ontario.

**Ms. Lisa M. Thompson:** Yes, and OMAFRA has the folks travelling to promote Ontario products worldwide.

**Mr. Bob Peter:** Yes.

**Ms. Lisa M. Thompson:** Okay; duly noted. Thanks.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Forster.

**Ms. Cindy Forster:** Somebody mentioned that an \$11 price point is kind of where—

**Interjection:** And under.

**Ms. Cindy Forster:** Eleven and under. So can the Ontario wineries, as they currently exist, compete with the imports without spending some money to go out and market theirs as exports to other countries?

**Mr. Bob Peter:** Bob, do you want to answer it?

**Mr. Bob Downey:** Well, in our market, primarily the ICB wines compete under \$11, and they can compete very well; they've shown that. The quality for money is there. VQA, on the other hand, tends to operate over the \$12 mark, and within the \$12 to \$15 range, they do really well. Over \$20 is much more competitive. Then you get into competing against the imports in Vintages. But within the \$12 to \$15 range, VQA competes with the best. So there's potential, I think—it depends on the winery—to export and compete on the world stage, in certain varieties of wines. I think Chardonnay, Riesling—we make world-class Riesling. There's no reason why we can't compete in other markets with those wines.

**Ms. Cindy Forster:** I just want to make a comment, too—I hadn't really turned my mind to it until somebody raised it—the fact that we live in Canada, in a multicultural country. I know, when I sit in Queen's Park and I see these kids coming in from all their classes, there's every culture that you can imagine. I'm sitting there and I've really never thought about the fact that people come here and they want their own wines, their own beers—whatever, right?—because that is part of their culture in their country.

1550

**Mr. Bob Downey:** We buy from 82 countries now.

**Ms. Cindy Forster:** From 82 countries, so it's difficult to try and balance that.

**Mr. Bob Downey:** Some of them with a very long supply line, so—

**Ms. Cindy Forster:** Yes.

**Miss Monique Taylor:** So that's a good question then. In conjunction with other countries, would you say our percentage on the shelves is balanced compared to other countries? How would you say we're balancing on the shelves in that way?

**Mr. Bob Downey:** I think you've got to go back—Canada, in the 1950s and 1960s, at least in Ontario, was primarily a spirits market. Wine didn't exist; it was sherry, port and a little bit of table wine. As more immi-

gration came from southern Europe, people started getting into wine and the wine business has grown. Initially, Ontario didn't make the best wines; it was a tough business.

We're in a growth opportunity. As the wineries get better, they're making better wines all the time and they're getting better at marketing. We've had challenges just trying to help the people to get their packaging right. There's a whole series of things—you know, it's a learning curve for all these wineries. As Bob read the letter there, it's one thing being a great winemaker, but you need a sales team to move it.

I told you the story of John Hall with his Forty Creek Whisky on Monday. Here's a guy that was just about out of business and now he's moving a tractor load every three days. But he went store by store and sold his pitch. He didn't need millions of dollars of advertising, but he committed himself. You know, we have a tasting program and people have to pay to use it, but on Thursday we offered it to the trade. If the principals come in themselves in the store, they can show their wine or spirits or whatever they want. Not many take advantage of it, believe it or not.

I was in Georgetown one day. I arrived there at about 4 o'clock. A salesman grabbed me—I've never seen the guy before in my life—and he says to me, "You know, you've ruined my family life." I said, "I'm sorry; I don't know you." He said, "I have to work Thursday nights now because of this tasting thing." I said, "Well, you're in the wrong business. Let me help you out to your car."

You know, we're open seven days a week. If you're not passionate about your product, how do you expect the LCBO team to be passionate about it? It's a round-the-clock business here, but you've got to get out there and pitching. It's hard work. Someone said that it's tough sledding out there, but you've got to get share-of-mind with all the different people. There are products everywhere coming at you, so if you can do that, you'll be very successful.

**Miss Monique Taylor:** All righty. Well, thank you again.

**The Chair (Mr. Phil McNeely):** Ms. Jaczek.

**Ms. Helena Jaczek:** We haven't talked much about Bill C-311 through the last two days, and I'm wondering if the LCBO has had a chance to consider that bill. I know you have your private ordering system. Is there a reason for Ontario to jump on board with this particular bill?

**Mr. Patrick Ford:** Bob Peter described this on Monday. I think the view of most of the provinces, of liquor boards across the country and the ministries that they report to, is that the bill isn't necessary, that Canadian wines do have full access to the marketplace; that, as you noted, we all have private ordering programs where any wine that's not on the shelf of a store of Ontario, a store in Saskatchewan or anywhere, can be ordered in from another province or, for that matter, from another country.



The other thing where there has been some measure of confusion around this bill too is this assertion—and I think we heard a bit of it earlier again today—that a Quebec customer coming to visit a Prince Edward county winery isn't able to bring wine back to Quebec, or vice versa; an Ontarian going to visit an artisanal winery or cidery in Quebec can't bring some back into Ontario. From the perspective of liquor boards and from the perspective of provinces and territories, they can do that right now. Ontario has actually been a bit of a leader in that regard in that the LCBO established a policy whereby any individual, at any time they're crossing a provincial boundary and they want to carry goods across for their personal use, can carry a case of wine and equivalent amounts for beer and spirits. We are encouraging all the other provinces as well to harmonize to that standard of a minimum of a case of wine that you can bring at any time. The only issue that's remaining is, can wineries make direct shipments across provincial boundaries to a home consumer in another marketplace?

Again, as Mr. Peter noted, our view is that that is not—again, access is addressed by private ordering. What that represents is a desire to be able to avoid paying the legitimate provincial fees and markups that, for example, the Saskatchewan government would apply to all the wines that they sell in that market, but now not to these ones that are coming from BC or Ontario.

The revenues that are collected across the country—it's not specific to Ontario. Every province and territory across this country, including Alberta, has made a decision that we will have a different system here than what we have in most of the United States and a lot of the western world. Some Scandinavian countries are comparable, where there will be a markup and tax structure that will be adequate to both help manage some of the social and health costs associated with it and also provide a source of revenue to help pay for health care, education and other programs. Nationally, provincial and territorial governments generate in excess of \$6 billion through the

sale of alcohol to fund those kinds of government services.

That's what our job is: to find ways to preserve that, while at the same time doing what we've been discussing mostly today, which is to figure out ways to continue to support our domestic wine industry and help them grow.

**Ms. Helena Jaczek:** Thank you for clarifying that.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Smith.

**Mr. Todd Smith:** Thanks. I did have a question as well about the private member's bill, but I do have a couple of items here from a winery down in Prince Edward county. Maybe I could get your comments on these two recommendations or suggestions that were made. One is the elimination of the personal wine consumption tax; the other is the elimination of the excise duty filing to the CRA on 100% Canadian wine.

**Mr. Patrick Ford:** I must apologize. I'm not sure what the reference is for the first one. It may be just a technical term I'm not familiar with.

**Mr. Todd Smith:** A personal wine consumption tax?

**Mr. Philip J. Olsson:** Well, there is a higher HST on alcohol. That may be what they're referring to. I'd refer that to the Minister of Finance.

**Mr. Todd Smith:** He's not here, right?

**Mr. Philip J. Olsson:** We don't represent him on that matter either.

**Mr. Patrick Ford:** As far as the other matter goes with respect to excise, we'd need to make a referral on that one as well, because that is a federal government tax.

**Mr. Todd Smith:** Sure, yes. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Any further questions? If not, then this committee is adjourned until Wednesday, July 4, at Queen's Park.

I wish to thank everyone for coming here today: all the members, all the participants in the audience. I want to thank the LCBO and Mr. Olsson's team here today for all the good information you gave us. Thank you very much.

This meeting is adjourned.

*The committee adjourned at 1558.*



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## Official Report of Debates (Hansard)

Wednesday 4 July 2012

## Journal des débats (Hansard)

Mercredi 4 juillet 2012

### Standing Committee on Government Agencies

Agency Review:  
Workplace Safety and Insurance  
Board

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## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES  
ORGANISMES GOUVERNEMENTAUX

Wednesday 4 July 2012

Mercredi 4 juillet 2012

*The committee met at 0901 in committee room 1.*

## SUBCOMMITTEE REPORT

**The Vice-Chair (Mr. Phil McNeely):** Good morning. We're here to conduct the agency review of the Workplace Safety and Insurance Board.

Before we begin, we have a subcommittee report for June 27, 2012. Would someone move adoption of the report? Ms. Jaczek.

**Ms. Helena Jaczek:** Your subcommittee on committee business met on Wednesday, June 27, 2012, to consider the method of proceeding on the agency review of the Workplace Safety and Insurance Board and recommends the following:

- (1) That an additional stakeholder be scheduled from each caucus;
- (2) That to accommodate the additional stakeholders, the committee meet at 9 a.m. on July 4, 2012, and July 5, 2012;
- (3) That, if required, the committee meet beyond 5 p.m. on July 4, 2012, to accommodate a stakeholder;
- (4) That the Workplace Safety and Insurance Board's appearance before the committee on July 4, 2012, be at 9 a.m.; and
- (5) That the clerk of the committee, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

**The Vice-Chair (Mr. Phil McNeely):** Any discussion? All in favour? Carried.

AGENCY REVIEW:  
WORKPLACE SAFETY  
AND INSURANCE BOARD

**The Vice-Chair (Mr. Phil McNeely):** We'll now proceed to the agency review of the WSIB.

WORKPLACE SAFETY  
AND INSURANCE BOARD

**The Vice-Chair (Mr. Phil McNeely):** Ms. Witmer, Mr. Marshall and Mr. John Slinger, come forward. You have 30 minutes for your presentation. For the purposes

of Hansard, just mention your name at the start of your presentation. You may proceed.

**Mrs. Elizabeth Witmer:** Thank you very much, Mr. Chair and members of the standing committee. I'm very pleased to be here today with David Marshall on my right, our president and CEO, and John Slinger on my left, our chief operating officer, as well as the staff from the WSIB who are seated behind me.

We very much welcome the opportunity to appear before the standing committee to review the operations of the Workplace Safety and Insurance Board. We also welcome the opportunity to describe the transformation of the board to a modern, sustainable and accountable workplace insurance system for workers and employers, a system that is very important to economic growth and productivity in our province and, most importantly, a system that is committed to the prevention of workplace injuries, illnesses and fatalities and the promotion of health and safety in the workplace.

Over the course of the next two days, you will learn more, as I have, about this transformation and about the dedicated and committed group of people comprising management and staff who are leading this change to a modern workplace safety and insurance system and establishing a strong foundation for future success.

When I accepted the appointment as chair of the WSIB, I did so knowing that the board faced many challenges but also knowing that the transformation was moving forward decisively under the capable leadership of president David Marshall and his team. This included a focus on greater transparency and on improved services and accountability to stakeholders. My mandate is to ensure sound governance and to oversee, with the board of directors, this transformation to a modern and fiscally accountable workplace insurance system. As future appointments are made to the board, they will be made based on specific skills, knowledge and experience to enhance the competencies of the board in order that it can provide good governance and strategic direction to the board as it fulfills its mandate.

In my recent meetings since I've become the chair, I have met with many stakeholders. They have included both employers and workers. They have acknowledged the positive and noticeable change that has occurred at the board during the past two years. They have acknowledged that there is more transparency, fiscal accountabil-



ity and attention to improving the services for both the injured worker and the employer.

The staff I have met in Toronto and some of the regional offices I have visited throughout Ontario tell me the same thing. I would say to you that, for the most part, they have expressed great enthusiasm about the transformation that is taking place as they see it benefiting the workers and the employers.

Having said all this, we do face challenges such as the unfunded liability. However, we are moving forward decisively to achieve our mission more effectively and efficiently of helping injured workers return to work and to productive lives and to protect employers from financial loss through a collective liability insurance plan. In doing so, we can positively impact economic growth and productivity in Ontario and the lives of the workers and their families.

Let's turn now to the WSIB as an agency. As an agency, the board is accountable to the Legislature of Ontario through the Minister of Labour. It is bound by and adheres to the agency establishment and accountability directive and to all additional requirements with respect to privacy, expenses and executive compensation. The Ministry of Finance in 2010 found that the board's controls over administrative expenses were in very good condition. The audit is posted on the board website. The board is also in full compliance with the existing memorandum of understanding with the Minister of Labour, and I am in the process of currently updating that MOU with Minister Jeffrey.

Currently, we have a board of directors that meets regularly throughout the year. It is supported by several subcommittees, including a governance committee, an audit and finance committee and an investment committee, and we still have our health and safety committee. The Auditor General has a permanent representative on the audit and finance committee of the WSIB's board.

Let me now turn to the important role of the WSIB in the economy of our province. Every year, tens of thousands of workers file claims with the board because of injuries they have suffered or diseases they have contracted in their workplace. At any one time, the board is responsible for about 200,000 workers who need help. That's about 5% of the four million workers who are covered. The human cost to these workers and their families is substantial. I'm sure that as MPPs, most of you have had opportunities to hear first-hand about the cost to these individuals and to their families.

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Also, of course, there is an impact on the productivity of the province at a time when we are short of skilled workers.

Of course, the amount of compensation that has to be paid as a result of injury and disease runs into the billions of dollars. The entire cost of compensation is carried by the employers, most of them small businesses, since the government does not fund the system. Thus, you can see that how effectively the board does its job does have a very significant impact on the economy of the province

and, of course, on the lives of the workers and their families.

That is why this is such an important agency. It must constantly seek to do all it can to prevent workplace injuries and disease. It must do all it can to help workers get well and return to their jobs, and to provide stability for the businesses when serious injuries do occur.

Let's take a look for a moment at how the agency is doing so far.

As I indicated at the outset of my remarks, there has been great progress made during the past two years, and the stakeholders have acknowledged that that is positive. So if we step back and ask the fundamental questions, you will notice two things. The first: If you take a look at the compensation which is required by legislation, you will see that for a worker injured in Ontario, it is comparable with all of the other provinces in Canada. Also, if you take a look at our board, we currently have one of the lowest costs of administration among all of the provinces in Canada. So you can see that there is this objective of making sure we are fiscally accountable.

By 2011, as a result of the changes that the board has made in its operations, the agency is getting 91% of all workers who were injured back to work with no loss of pay within one year or less of their injury. That is a big improvement from where it was at just three years ago.

Employers, through all the ups and downs of the economy—and we've certainly had lots of those in the last few years—do pay their premiums, and they are protected, as a result, from being sued by the workers. They pay into a collective insurance scheme, and they don't have to qualify for insurance each year or face being cut off from the insurance. It's there for them.

So the system is working, and it is delivering good value for the majority of workers and good value for the employers of this province. Indeed, Professor Harry Arthurs, in his recent report, *Funding Fairness*, quoted one critic who made the point to him this way: "[D]espite its many shortcomings, the WSIB is a valuable public institution that in most cases actually performs the important ... functions it was established to perform." Professor Arthurs went on to say that several other individuals "also expressed optimism about current developments in the WSIB's policy and/or practice." Again, that's what I have been referring to: There is positive change occurring.

In that regard, the Auditor General of Ontario, in his follow-up to his 2009 report, said that the WSIB has made progress in introducing a number of initiatives to address the unfunded liability.

I'd like to now touch briefly on the unfunded liability of the board, because it's always a topic of discussion, and some of the recent changes in board policies and practices.

What is being done to address the unfunded liability? Well, I can personally assure you that the senior management team and staff are taking decisive action to reduce and eliminate the UFL, as they have been asked to do. First of all, there has been a very thorough and evidence-



based analysis of where the money is going, what value is being provided for workers and employers, what the costs are, and what best practices are and how things can be improved. A strategic plan as to how the UFL can be retired has been developed so that the board can help play its part in increasing the productivity and economic growth of Ontario.

As well, the board now has a 2012-to-2016 strategic plan that is available on the website. It describes the transformation of the board into a modern, sustainable and customer-focused provider of workplace compensation. Importantly, the strategic plan is supported by specific projects and regular measurements, and these are carefully monitored by the board of directors each quarter.

In order that we can be open and transparent to all of the stakeholders, the WSIB is publishing quarterly financial reports that include the current UFL and the board's progress towards addressing it. The board's strategic plan sets the agency's vision—to be the leading workplace compensation board in Canada and North America. In short, that is our goal. In order to achieve that goal, obviously, we need to continue to focus on prevention, we need to continue to focus on keeping our workplaces safe and healthy, and we need to ensure that, as we move forward, we take a look at this plan and that it provides direction as to how the board can deliver better service to the workers and employers in a financially responsible way. It shows the commitment to change, change that will preserve strong and sustainable workplace compensation for generations to come. That, of course, has to be our goal.

Let me share with you some of the operational changes that have taken place at the board over the past two years and how improvements have been made to the delivery of services. A new service-delivery model has been introduced, a new medical strategy is in place in order to speed up access to health care for injured workers, and there is a new return-to-work strategy in place that is supported by 300 staff whose sole focus is helping to get the injured workers back to work safely.

I've had a chance to visit some of the regional offices. I'm going to complete those visits in September. I have been so impressed by the people who are working so diligently and so compassionately with the injured workers to ensure that they can be returned to work safely.

At the same time as these changes in service delivery have occurred, in 2011 the government passed legislation requiring the board to be sufficiently funded and making the board more independent. The management and board of the WSIB have responded. It was necessary to raise premium rates for two years in a row, 2011 and 2012, and they also chose to reduce the refunds that they provided to employers. This was necessary in order to stabilize the finances of the insurance fund. Obviously, you need sufficient funding in order to provide fair funding to those who are injured on the job.

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These are very significant improvements, and they are delivering positive results. At the end of 2011, for the first time in 10 years, the board recorded a surplus of revenues over expenses. This is a very important milestone in achieving our goal of reducing and eliminating the UFL, which, of course, we are now required to do.

In terms of our new service delivery model, workers are getting decisions on their claims faster than ever before, and they are then able to get back to work faster than they have for over a decade. In fact, 91% are now getting back to work with no loss of wages within a year or less of their injury. As you can well understand, this is beneficial for both workers and employers, and obviously it is good for the productivity of Ontario businesses.

Benefit costs have come down, and more workers, as a result, are able to lead productive lives.

Moreover, employers now get 90% of their calls answered by a live operator in one minute or less, and several new electronic services available 24 hours a day, seven days a week, have been introduced to simplify and speed up transactions with the board. As I say, we want to make sure that all stakeholders can easily access the board and the board's services.

I'd like now to touch briefly on the insurance premiums required to pay for the system and their impact on competitiveness.

I have heard from many employer groups that the premiums in Ontario are among the highest in Canada. I do acknowledge this, and I will tell you that this issue is being addressed. However, there is no simple solution. This has been an issue for many years. However, employers, or at least their industry representatives, already know that the board today is doing everything it can to contain the costs, and I will repeat that the board today has one of the lowest costs of new claims and one of the lowest administration costs of all the provinces. This is an indication that we are on the right track.

The reason the premiums in Ontario are higher than in the other provinces is because the employers today have to pay for the cost of carrying an unfunded liability which is there as a result of what has happened in the past and which most of the other provinces do not have. So it's not the current costs of the board that are the problem, and there is no way to reduce the premiums currently if you're going to pay off that unfunded liability.

The good news is, as I mentioned before, we have already stabilized the finances of the board, and the board has turned a page. That is a very good start.

The government, based on Professor Arthurs's report, has enacted a law that requires the board to achieve at least 60% funding in five years and full funding in 15 years. Based on extensive analysis and some quite conservative financial projections, we are very—and I should stress this, “very”—confident we can achieve these goals. Other provinces have been able to maintain full funding, and there is no reason Ontario cannot do the same. Obviously, then, it will start to reduce the premiums.



Another important change at the WSIB is that stakeholder consultation has been increased and is valued. The extensive network of worker and employer advisory committees called chair's advisory committees that were set up by my predecessor, Steve Mahoney, are working very well. I have met with the co-chairs and members of some of these committees, and the feedback I have received is that they are a valuable mechanism for stakeholder consultation. They provide early information, feedback and transparency about the decisions being considered by the board. They provide an excellent sounding board for the changes we are introducing.

Our support for the Injured Workers' Outreach Services group, which represents vulnerable workers in communities across Ontario in dealing with the board, is also producing very good results.

We also fund the Office of the Worker Adviser, the Office of the Employer Adviser, and the Fair Practices Commission. To facilitate the prevention of injuries and provide enforcement of legislation within the system, the board also provides \$200 million to the Ministry of Labour. As you maybe know, or don't know, the prevention mandate has been transferred to the Ministry of Labour.

In terms of the future, I would like to take this opportunity to thank Professor Arthurs, who I know is going to appear before this committee, for the outstanding services he has rendered to this province by analyzing and recommending improvements to the board to address the UFL and the financial stability of the workplace insurance system. His thoughtful recommendations are going to guide many of the initiatives going forward.

Clearly, there is no room for complacency. The challenges the board faces are enormous, and they go well beyond just overcoming its current financial hurdle. The system will continue to face growing costs and challenges from many other sources. These are going to include more occupational disease claims, which will in turn place increasing demands on the system.

So, although there are challenges and there are tough decisions that need to be made, not the least of which is a decision about future insurance premium rates for employers over the next few years, I would say to you that I am confident that we can meet the challenges and we will be able to make those tough decisions. We can do so if we work with all of our stakeholders, and certainly that is what we are endeavouring to do, to consult with them and to get their feedback. We are committed to conducting our business with fairness and with integrity, and we are engaging in more consultation with our stakeholders than ever before. I would say to you that I think those committees that Steve Mahoney, my predecessor, set up are having a very positive impact in that we are now able to get feedback before decisions are made. In the case of the appeals process and the consultation, we made changes based on input that we received.

In conclusion, I trust that this overview of the WSIB and its transformation to a modern workplace insurance system based on sound business principles has provided

you with a greater understanding and appreciation of our efforts to better meet the needs of employers and workers. We do look forward to responding to your questions. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Ms. Witmer. Each caucus will have 30 minutes for questions in three rounds of 10 minutes. The first will go to the official opposition. Who wishes to lead? Mr. McDonell.

**Mr. Jim McDonell:** Thank you, Chair. Thank you for coming before the board today, Ms. Witmer.

The record of the WSIB has been something less than stellar over the last five years. The unfunded liability has doubled. In front of me is a report by the Canadian Federation of Independent Business. They rate the overall index as the lowest in the country in customer service—by far the lowest. It doesn't paint a very pretty picture. Any comments on that?

**Mrs. Elizabeth Witmer:** Certainly. Thank you very much, Mr. McDonell. I've had the opportunity to meet with the CFIB personally. We've certainly discussed the concerns that they have. I think I acknowledged in my remarks that we recognize that we do have a huge unfunded liability and that that unfunded liability needs to be dealt with. Until it is, obviously, it continues to present challenges.

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However, I would say to you again that during the last two years under the leadership of our president and our CEO, there has been a thorough analysis done of the issue and there is now a strategy that has been developed in order to eliminate this unfunded liability. I have every confidence that that will indeed occur. Even the CFIB have acknowledged that they're seeing noticeable improvement in the way the board operates and the level of fiscal accountability and responsibility.

However, I'm going to allow our president, who has really been steering the board these last two years in making this change, to provide you with some greater detail as to what is happening.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you very much, Chair, and thank you for being with us today. My question as well is around the unfunded liability. Ms. Witmer, during your remarks you focused on the analysis of where the dollars have been going. I appreciate that in your strategic plan, one of your pillars is that revenue must cover costs. That's nice to see, but in terms of the analysis that you referenced, I'm wondering if you could drill down and share the parameters of that analysis and the timeline of when we can expect results.

**Mrs. Elizabeth Witmer:** Sure. Thank you very much, Ms. Thompson. I'm going to allow Mr. Marshall to give you all the detail, because he's the one who has been very intimately involved in making sure that we achieve that objective.

**Mr. I. David Marshall:** I think your question was, in a sense: "What's driving the unfunded liability? Is there



anything we can do about it, and if so, when will we see results?" The unfunded liability, by the way, is the shortfall in the fund between what we need to pay workers in the future and what we have. The driver for this situation, which is somewhat unique in Canada among the other provinces, very simply is that expenses outstripped revenue for a number of years—for about a dozen years. The main reason for that was that, starting in about 1998 and just after that, the board really made a significant change in how it approached its service. Instead of regular contact with workers and helping them back, the board outsourced that to private providers and created a very generalist type of manager who had many, many files to manage and couldn't pay attention to individual workers as much as before. To put it briefly, more and more workers—thousands of workers—weren't getting back to work, which wasn't the case in other provinces and needn't have happened here because, during most of that time, employers were adding jobs to the economy. Injured workers in Ontario were staying off longer and longer, and many of them were getting locked in for 10 years or more on benefits, and that drove up costs very significantly. At the same time, premiums were not increased, so you had this gap opening up that kept growing and growing until finally you have additions to your future expenses that you don't have enough money to fund. What was happening then—and that has been commented on by several observers—is that we started taking money out of our investment fund to pay for current expenses. This was really a situation that was headed for a very serious crisis, and the Auditor General in 2009 actually commented on that.

As you probably know, the benefits that are owed to injured workers are defined in legislation, and the government decides that. There has been commentary that the government has added benefits without finding a source of money to pay for them and contributing to the unfunded liability. But when you actually examine the numbers, as we have, you'll find that that is true, that there were some retroactive benefits enacted, but the real impact of that was about \$1 billion. We're talking about a \$6 billion increase in the unfunded liability. The fundamental reason is that expenses grew because we weren't serving workers as well as we should and revenues were kept down to help employers with the premiums.

However, you can't reduce the premiums because you would have to start paying for that money that came out of the investment fund before. What we did was create several financial models to see what might happen: Was there any hope, really, or should we sort of throw in the towel and say, "Look, put it on the province's books and raise general taxes"? What we found, and we discussed this with the Ministry of Finance and the Auditor General, who accepted our analysis, was that indeed there was light at the end of the tunnel, that we could retire the unfunded liability in an orderly fashion without horrendous increases in premiums, but they would be needed. And we had to change at the same time how we served workers. We had to get much better at helping them back

to work. There was no reason that workers should stay five, six, 10, 20 years on claim. So we proceeded to have an operational plan and a financial plan.

I can tell you that we passed a real milestone in 2011 when our premiums collected actually paid for the expenses of benefits and we didn't have to take money out of our investment fund. For the first time in 14 years, we actually put some money back into the fund. So in terms of when we will achieve the goals, this is now laid out in legislation. We have to reach 60% funding in five years, 80% funding in five years after that, and then full funding in five years after that; so it's a 15-year time horizon. It is long, but it's a lot of money we have to collect: about \$14 billion.

**The Vice-Chair (Mr. Phil McNeely):** You have one more minute.

**Mr. Rob Leone:** I have a very quick question, Mrs. Witmer. First of all, thank you for helping my constituent a couple of weeks ago—very helpful in terms of your intervention. But I have a question with respect to premiums. You noted that we have the highest premiums in the country. I wonder if you could provide some commentary with respect to high premiums and the effect it has on small business growth and job creation in the province of Ontario.

**Mrs. Elizabeth Witmer:** I've tried to incorporate that into my remarks, Mr. Leone. Obviously, we recognize that it is a cost of doing business in the province of Ontario. We always want to make sure that when it comes to creating an environment that encourages job growth, we do everything we can to, obviously, reduce red tape but also to ensure that the taxes in the province can be as low as they possibly can be. So, that's why the plan to eliminate the unfunded liability will take place over the course of 15 years, because we do recognize that any increase in premiums, again, is a cost to small business.

**The Vice-Chair (Mr. Phil McNeely):** That takes up the time. We'll go to the third party and Mr. Natyshak.

**Mr. Taras Natyshak:** Good morning. Thank you very much for appearing before us. Ms. Witmer alluded to the Arthurs report, so my comments and questions will focus mainly surrounding that, in general. The report was released on May 4, 2012. Can you tell us when the WSIB had a full view of that report?

**Mr. I. David Marshall:** I believe we had that just before the end of the year, around Christmas. Am I right there?

*Interjection.*

**Mr. I. David Marshall:** About January; sorry.

**Mr. Taras Natyshak:** January? One of the areas that Professor Arthurs focuses on is the indexing for workers on partial benefits. Can you tell us how the issue came to be included in the terms of reference of the funding review?

**Mr. I. David Marshall:** Yes. I believe it was the government that put that on Harry Arthurs's agenda to look at.

**Mr. Taras Natyshak:** What, in general, has the board's opinion been of the focus and the initial mandate



of the Arthurs report, I guess? Are you in agreement that his mandate was in the right direction?

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**Mr. I. David Marshall:** Well, yes. We, in fact, initiated the review, Mr. Taras. In order to proceed on an orderly basis, we needed to get consensus amongst various stakeholders who had different points of view about some very foundational issues. For example, should the fund be fully funded or not? Lawyers didn't necessarily agree with that, and neither did workers. Was the rate group structure in which employers were organized appropriate to the current business environment?

The experience rating, where we still give money back to employers based on their claim experience, was clearly causing some unintended effects. What should we do about that?

All of the things, pretty much, except for indexation, which the government asked to be included, were things that the board—the WSIB and us as managers—in fact asked Harry to look at. So yes, we were very supportive.

**Mr. Taras Natyshak:** In Professor Arthurs's report, recommendation 8-2.1, page 103, he quotes that "in the budget year following release of this report, the benefits ... should be increased" by the consumer price index, the CPI. The government has not implemented this and instead announced 0.5% for each of 2013 and 2014. Was the board consulted with this decision?

**Mr. I. David Marshall:** We were consulted on the cost of various options that the government was considering. Obviously, it's not our decision in the end. But we were asked to provide analysis of what the cost would be, yes.

**Mr. Taras Natyshak:** Can you give me an overview of what that analysis said in regard to the 0.5% increase?

**Mr. I. David Marshall:** Yes. It's also in Harry Arthurs's report. If you see his models in terms of funding, you might be able to notice that if full indexation of partially indexed workers was implemented, it would add close to \$2 billion to the unfunded liability.

In terms of what the government did implement, which was actually more than what's in the legislation, which is the modified Friedland formula, which would have yielded in the next two years about 0.3% of indexation, and the government decided to increase that to 0.5%—the cost of that, what the government did announce, is about \$40 million over the next two years, so about \$20 million a year. We provided that analysis to the government.

**Mr. Taras Natyshak:** The board has the power to review the WSIA and regulations and to recommend changes. Will the board exercise that power to recommend that the government restore full indexation?

**Mr. I. David Marshall:** Really, Mr. Taras, it's not in our purview at this stage. We already have Harry Arthurs, who has made that recommendation, after broad consultation with ourselves and with other stakeholders. It is up to the government to decide the benefits, and we provide the supporting analysis for that.

**Mr. Taras Natyshak:** Forgive me, Mr. Marshall, but sometimes the best intentions and the best reports, specifically in this place, get shelved. I'm just wondering if, because the board has the power to make those recommendations, it might carry more weight in conjunction with the Arthurs report. You're saying that you'll simply rely on Arthurs's recommendations and that's it?

**Mr. I. David Marshall:** Yes, but as you can read in his report, there's a very detailed rationale for why indexation should be included. In a sense, Harry Arthurs has done that job for all of us in recommending a change. The government has to weigh up its options. There are many, many priorities, and they have to make that decision.

**Mr. Taras Natyshak:** Is the board aware of what the government's plans are for moving towards indexation after 2014?

**Mr. I. David Marshall:** No. At this stage, we're not aware. We were just given the cabinet decision on that—

**Mr. Taras Natyshak:** When would you expect to find out what the plans are? We would assume that you would want to make provisions for that.

**Mr. I. David Marshall:** That is correct. I would suppose that when the government puts its mind to making a change—they've already, in a sense, committed to what will happen in the next two years. I think that if they were going to make a change for the third year, they should let us know next year, because we'd have to look at that in terms of premiums needed to pay for the benefits. So we would probably appreciate knowing, perhaps around the middle of the year next year, what their intentions are going forward.

**Mr. Taras Natyshak:** I think you just sent that clear message to the government. Thank you for doing that.

I'd like to move to the experience rating system. Recommendation 6-2.6 calls for the commitment within 12 months to making changes necessary to protect workers against claim suppression and other abuses, with 30 months to implement these changes. If the time frames are not met, experience rating should be discontinued. He made those recommendations because of what he described as a "moral crisis" that has arisen because the board hasn't taken adequate steps to deal with the abuse. Will the board be in a position to abide by those time frames?

**Mr. I. David Marshall:** I would say that we're taking this very seriously. We are engaging an expert to work with us and to consult both workers and employers on the current structure of experience rating.

I should say that experience rating exists in all the provinces. It's a means of recognizing employers that have fewer claims versus those that have more claims. Professor Arthurs has recognized that there could be unintended effects of this kind of financial incentive, so that employers might be tempted to suppress claims so that they can get either more of a refund or less of a surcharge, and we've certainly taken notice of that. I should tell you that many of my colleagues in the other provincial boards have exactly the same challenge of



potential abuses by employers. You will note that Professor Arthurs didn't say that there was actually any evidence of that, but on balance he believed that was a problem, and to the extent that there was even a probability that it was happening, that we should act.

What we are doing, then, is to engage employers, starting this fall, around September, in a very intensive discussion around how to change the experience rating system here in Ontario. We're also engaging the Chief Prevention Officer to get his views about what kind of financial incentives would actually promote prevention, as opposed to simply inducing any kind of financial engineering, if you like, on the part of employers. So this is front and centre, and we've already given notice to employers that we'll be looking at that.

**Mr. Taras Natyshak:** Thank you very much. If I can tie in the WSIB's previous mandate, prior to April 1, 2012, in ensuring that workplaces with 20 or more employees have the mandated, legislated, two certified members required by law—if I can shift that to the experience rating rebates, could you confirm whether—because it's estimated that roughly 59% of workplaces in Ontario do not have the mandated certified members. Is it the WSIB's practice to still allow companies to receive experience rebates even with a confirmation that certain companies do not meet those statutory requirements?

**Mr. I. David Marshall:** You know, we're in transition at the moment. It's not really feasible to make ad hoc changes in the middle of things. This system has been operating for quite a while. The issue that you've mentioned in terms of proper arrangements and internal responsibility systems for prevention now really falls under the Chief Prevention Officer, and we're going to be working very closely with him as to what constitutes proper safety procedures at an employer's premises. In fact, we'll be working with him on whether or not he would like to create a certification program where employers have to meet certain standards that he would lay down, and where we would then help that by potentially providing a discount, if you like, on premiums for employers who meet those standards.

But in the meantime, this affects thousands of employers. There's a couple of billion dollars that goes back and forth between employers and ourselves. There are formulae that are embedded in our policies. To change that is what really we're engaged in right now, so that we can consult employers and make sure that any changes we make are not disruptive, and they have a chance to accommodate them and so forth. So I would say that—

**The Vice-Chair (Mr. Phil McNeely):** Could you wrap up, please? You're over time now.

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**Mr. I. David Marshall:** I'm sorry.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. We'll get that in the next round.

Now we'll go to the government and Ms. Albanese.

**Mrs. Laura Albanese:** First of all, I want to thank you for the presentation and for appearing before our committee this morning.

My first question would be to Mrs. Witmer. The question is, what would you like to see as your legacy as chair of the WSIB?

**Mrs. Elizabeth Witmer:** Well, I think I made reference to it in my opening remarks. I would like this Workplace Safety and Insurance Board to be the best in Canada and North America. I would like to see it being financially accountable to employers and to workers. I would want us to have the safest workplaces in the North American jurisdiction. And I guess I would want to know that we are serving all of the stakeholders to the best of our ability and that the level of satisfaction is as high as it possibly can be. I think in order to achieve that, we need to continue to have an open dialogue, transparency, and we need to be responsive to the concerns that are expressed.

It would be wonderful if the day would come when people, if they actually were given a choice, would choose the Workplace Safety and Insurance Board because they know it provides the best services to the injured workers, and also employers would see it as being fiscally accountable and responsible. That's where I'd like us to be.

**Mrs. Laura Albanese:** In your presentation, you spoke about some of the challenges that the WSIB would be facing and some of the weaknesses. What do you believe are specifically the weaknesses that need to be overcome to better serve injured workers in Ontario?

**Mrs. Elizabeth Witmer:** If you take a look at some of the people in the workforce, you can recognize that we're going to have more older workers in the workforce, we're going to have more women, and we're going to have more immigrants. So one of the challenges that we're going to face is that some of these individuals do have more injuries.

Also, if you take a look at the immigrant population, I do think we need to do everything we possibly can, because we know we're going to have more immigrants who don't all have the English-language skills, and we need to make sure that people are aware of the fact that there is a Workplace Safety and Insurance Board for them when they are injured on the job. I think one of the things we need to do is continue to communicate more effectively. Perhaps, when we have English-as-a-second-language classes for newcomers, right up there, up front, we could make sure that they're informed about the fact that there is a board, and if something does happen in the workplace, they can access it.

One of the other things we're trying to do is, we're changing our website so that when people access it, they can choose the language of choice for communication and learning about the board and what their rights and their responsibilities are. There's a population there that we'll need to make sure that we can address moving into the future.

**Mrs. Laura Albanese:** That's very important. Could you also give us a sense of how things have changed in how the WSIB approaches injuries and fatalities specifically for young workers?



**Mrs. Elizabeth Witmer:** Young workers is an interest I've always had personally from my own days as Minister of Labour. I do believe that over the years—and I know that my predecessor, Mr. Mahoney, was very committed to the prevention of accidents and injuries in the workplace as well. I think there has been a greater focus on raising the awareness of young people as to when they go into the workplace, through communication and other vehicles within school, to make sure that they are aware of the fact that they do have the right to refuse unsafe work. Obviously, they have rights and they have responsibilities. Perhaps, Mr. Marshall or Mr. Slinger, you might want to add some further information regarding initiatives recently that help, again, to protect young folks.

**Mr. John Slinger:** I will say that over the last two years we've made some policy changes which were specifically aimed at a group of younger workers who are injured before they really reach their full earning capacity. Whereas we had previously looked at the work that they were doing and their existing earning capacity and trying to put them in a position where they could go back to work earning at that level, we've now changed policies to actually recognize that we need to do more. The policy now enables us to look at setting a projected wage for younger workers so that in fact we can do more in the areas of retraining to improve their position.

**Mrs. Laura Albanese:** One other question that I had is, in 2011 you implemented the new work reintegration program. There has been an increase in injured workers returning to work, as you mentioned, in a much shorter time span. While this program appears to speed things up, how can you assure us that quantity is not being favoured over quality?

**Mr. I. David Marshall:** Maybe I'll take that question. In the first place, the big change that occurred in 2010 that we implemented is that we have now 300 staff members who are expert in return-to-work and accommodated work for injured workers, so they are very well aware of what kinds of jobs are actually sustainable and not just paper jobs or temporary jobs. Whereas before, workers had to try to negotiate on their own with employers what job they could go back to, now we have experts going along with them.

In 2011 alone, our staff visited 21,000 employers to help employers and workers get together and find the proper jobs for them. What we've been seeing very quickly is in fact a reduction of almost 20% of the workers who come back to us a month after they've taken up a job. What used to happen is, workers would get back and then find this wasn't right or they weren't able to do the job, and then come back on benefits, and that rate is now dropping quite sharply. That's telling us that something is going right.

**Mrs. Laura Albanese:** And you can assure that the quality is not being compromised.

**Mr. I. David Marshall:** That is correct; yes. Obviously, it's the real world and efforts are being made, and where there's a problem we go right back in. In fact, we give the worker a sheet to give us a call if they're having

a problem after they've gone back, and we can help them some more.

**The Vice-Chair (Mr. Phil McNeely):** Time is up. We'll go to the official opposition and Mr. McDonell.

**Mr. Jim McDonell:** Thank you. In Ontario we already have some major issues with small business. We have the highest hydro rates, increasing another 45% over the next five years, and the highest property taxes. Bill 119 is going to force the independent operators onto the system, I believe, in January of next year. These people already have insurance; they're covered through, I guess, the accounting of the independent business, at much reduced rates. Do you feel this is fair, or is this just going to drive more people out of business in Ontario, because now we see people or companies leaving now? And is it just a way of getting more revenue? The answer seems to be always more revenue for many of the issues we see in this province. Is that really the right answer?

**Mr. I. David Marshall:** First of all, I think we need to understand that this is not extra revenue for the board, because it's an insurance premium, and it's set based on the expected claims that are going to be coming in; so the premium revenue is going to be used up in terms of claims that are coming in.

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To the extent that the premiums are more than necessary, of course the premium will be reduced the next time around. This is not in any way an attempt to add revenue, because it really adds work. We have to be able to pay for injuries that might occur with the new group of employers.

In terms of simply why they're coming on board: Obviously, there was due consideration of that. It was debated in the House and it's now the law. But really, I think the impetus came from a combination of construction businesses who said that they wanted to level the playing field so that everybody was in the system together. It also came from the labour community, who felt that a lot of workers with these independent operators were not adequately being covered for their injuries.

In terms of the actual cost of insurance, it's very difficult to compare, because the insurance that employers take, if you like, on their own—short- and long-term disability insurance—has many, many differences from what workers' compensation provides. For example, most of these plans have a limit of income replacement of up to two years, whereas the workers' compensation plan has no limit. You can get paid all the way up to age 65 and then get a pension. There are no limits on various medical procedures that are provided. As well, the workers' compensation system pays all medical costs—OHIP doesn't pay anything—whereas the private insurers rely on OHIP for medical costs on most of them and only top up after that. So there are many, many differences.

There have been studies done on this matter. Generally speaking, the conclusion is that the public system provides a very, very good price for the coverage that it



gives. Obviously, we can make that better in Ontario once we pay off the unfunded liability.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you very much. We're focusing on the revenue that you hope to recover through the imposing of Bill 119 and things like that, but let's talk about costs at WSIB as well. Can you specifically get into the details of how you are going to start managing your cost of operations in a responsible way to ease the burden of this unfunded liability?

**Mr. I. David Marshall:** Yes, I will. The big changes we've made to do just what you asked—there are really three things that we've done. First of all, we've reorganized our team so that we don't have generalist managers doing everything. We now have special teams that are focused on each stage of a claim: deciding eligibility in the first place; deciding how much wage replacement is appropriate; deciding on medical care, return to work and so forth. As a result, there's a lot more rigour in our system.

The second big thing we did—in fact, John Slinger, my colleague, has been leading a lot of this—is that we in-sourced labour market retraining; that is, the help for workers who couldn't get back with their employer. We hired 300 new people to work on this because we realized with our research that if you don't get a worker back within 90 days of their injury, the chances you'll ever get him back drop by 50%. So there's a very short time in which you've got to get involved with the worker, help them recover medically and negotiate with the employer to take them back. That has now been happening, and you'll see a drop in the number of workers who are still on-claim 30 days, 60 days and 90 days after their injury. That saves a huge amount of costs downstream.

The third thing we did was to change our strategy for medical care. We used to just leave workers to the general medical system. They'd go to their physician, be sent for tests, and wait around. It used to take sometimes two years before they'd get to an evaluation centre. That has all changed now.

I could go into some more detail, but there are very specific projects that are designed to control costs.

**Ms. Lisa M. Thompson:** One short supplemental: You mentioned you hired 300 employees. How large is WSIB in total?

**Mr. I. David Marshall:** We're about 4,200 to 4,300 people, and we're on track to be bringing that down as well, as you might hear.

**Ms. Lisa M. Thompson:** Do you have a target?

**Mr. I. David Marshall:** Yes, we do—well, “target”; we have areas where we know we can make economies. We've already had 400 people leave in the first quarter of this year.

**Ms. Lisa M. Thompson:** Okay. Thanks.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Leone.

**Mr. Rob Leone:** I want to pick up on what Mr. McDonnell had asked on Bill 119 and the premiums that these independent contractors are going to pay through

the private insurance they hold and through WSIB. Now, the criticism that they had levelled on—and this is also following up on the question I had previously for Mrs. Witmer. They're paying two premiums now, which is adding to the cost of doing business in the province of Ontario. So not only do they have the highest WSIB premiums in the country, but they also are paying premiums to their independent insurers through the course of doing business as it was already.

I'm going to ask a similar question to what I asked before, which is, how does that incent more small business growth in the province of Ontario and more private sector job creation when we're asking these contractors to effectively pay two insurance premiums? I understand that there are differences that Mr. Marshall had pointed out, and deficiencies and shortcomings in private insurance, but there are instances where private insurance actually covers and provides increased coverage than what they're receiving from WSIB.

I'll go back and stick to the main point of my line of questioning, which is, how do we incent small business growth and private sector job creation in the province of Ontario, given that we're asking these employers to essentially double the amount of insurance they're paying?

**Mr. I. David Marshall:** For one thing, as they enter the WSIB insurance system, they should go back to their insurers and negotiate a change in coverage. Obviously the insurance they have now probably covers them for short- and long-term disability, whether it's at work or not. Now that they have insurance for any injuries at work, they should be going back to their insurers, if they still want coverage outside of work, and negotiate a rate in that way so that there's no double coverage.

The second big benefit that small businesses have, and this is extremely important, is that an employer covered by WSIB is safe from being sued for any injuries in the workplace. So it's not just a question of being able to provide the money, but being sued and potentially losing their business if there's a fatality or a serious injury in their workplace. So that is a big benefit that they're getting coming into the system, and, I think, does provide stability for them as they go forward.

**Mr. Rob Leone:** Maybe I have to seek a little bit of clarification. So you're suggesting that businesses who are in the WSIB don't get sued for workplace injuries at all?

**Mr. I. David Marshall:** Sorry. It's a fundamental principle of the WSIB insurance system that workers gave up the right to sue employers for injuries in the workplace, except for—

**Mr. Rob Leone:** Right. But the ministry can still sue.

**Mr. I. David Marshall:** Sorry?

**Mr. Rob Leone:** The Ministry of Labour can still sue employers for—

**Mr. I. David Marshall:** They can sue under different legislation for violations of safety and labour laws, but not for injuries in the workplace.

**Mr. Rob Leone:** I just wanted to clarify that.



**The Vice-Chair (Mr. Phil McNeely):** Time's up for that, and we'll get back to that later.

The third party: Ms. Taylor.

**Miss Monique Taylor:** Thank you for being here with us today. I'm going to start on some conversation of universal coverage, because as I see in my chart here, Ontario is the lowest in Canada, at about 71%, with the average being 82%. In the Arthurs report, on page 108, he states: "I am convinced that the issue" of universal coverage "is so critical for the future of Ontario's workplace insurance system that it deserves early and extensive study."

Has the board begun to study this issue?

**Mr. I. David Marshall:** We have in the past done some work on that in terms of how many employers would be added to the system and how we could accommodate them. We are not currently looking at it. Dr. Arthurs's conclusion is that the larger the pool of employers, the less cost for each one individually, so you can spread the cost better and so all workers have the same kind of privileges and coverage. Obviously, this is something the government will need to put its mind to; this is something that needs legislation. I'm not aware of their studying it at this time.

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**Miss Monique Taylor:** Do you have any plans to do so at all?

**Mr. I. David Marshall:** Not at the moment, no. We have a challenge to get the fund fiscally sound, and that's where we're focused at the moment, and to help workers get back to work. I think, personally, this discussion would be improved once we get on a better fiscal footing. I think that's where we need to focus for the moment.

**Miss Monique Taylor:** Would it be possible that you could table that work before this committee?

**Mr. I. David Marshall:** Do you mean about coverage?

**Miss Monique Taylor:** Yes. Any work that has been done to date, we would like it tabled to the committee if possible, please.

**Mr. I. David Marshall:** Yes, I'll be happy to do that. I'll look at the materials and table it for you.

**Miss Monique Taylor:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Natyshak.

**Mr. Taras Natyshak:** I'm going to pick up where we left off, Mr. Marshall, with the experience rating. You had mentioned that you would be engaging with the chief prevention council around the redesign of experience rating. Do you have any plans on reaching out to workers' groups or actually workers in general? If so, what are those plans and any timelines associated with those?

**Mr. I. David Marshall:** Yes, we are. We published our agenda for policy renewals, and the worker community is aware that we are going to be looking at experience rating. We will be publishing a green paper on the principles on which experience rating should be based. Obviously, Dr. Arthurs has provided some input there. The Chief Prevention Officer will provide some more. There will be in-person hearings in which the worker

community and employers will be invited to make submissions, which will then be considered. Then we will put out a draft of the new system that we might propose, take input from that, and then come up with the final policy for experience rating.

**Mr. Taras Natyshak:** You had mentioned, in the context of the Arthurs report, that Professor Arthurs wasn't able to specifically identify employer groups that had taken advantage through the experience rating system. But there have been some reports, and I'm wondering if you can table them, that I believe WSIB would have. There's a report from Mike Johnston, executive director of regulatory services, including names of employers who were charged and convicted or who pled guilty to violations, that should make up a clear indication of what Arthurs wasn't necessarily able to identify. As well, there are results from the Ministry of Labour's pilot inspection program inspecting employers which had reported no injuries over the previous three years; the results were that these employers often had a high rate of occupational health and safety violations.

I'm wondering if you have access to those reports and if you could table them to us. We believe that they would obviously aid in your understanding—should make up a large amount of the data.

**Mr. I. David Marshall:** If I may ask, Mr. Chair, if the members' requests can just be given to us in writing? I want to make sure that I understand exactly—

**Mr. Taras Natyshak:** We'll do that, Chair. I'm sure we'll have a good list afterwards.

I'll pick up where my colleague left off under universal coverage. You said that the board has begun studying the issue, or you have in the past.

**Mr. I. David Marshall:** Yes.

**Mr. Taras Natyshak:** How long ago, roughly? Do you know when it was last reviewed?

**Mr. I. David Marshall:** I would say, about 2003.

**Mr. Taras Natyshak:** In 2003? So, here we are a decade later—any plans on reviewing that concept going forward?

**Mr. I. David Marshall:** I must tell you that we don't have any immediate plans to do so. I think this is something the government needs to take up because it'll need legislation and it is in their purview. In most of the other provinces, the government has taken the initiative and has passed legislation.

**Mr. Taras Natyshak:** Roughly, if we were to expand to universal coverage, how many employers would that bring into the system—employers and uncovered workers?

**Mr. I. David Marshall:** We cover about four million workers, so about a million extra workers would probably be involved, approximately.

**Mr. Taras Natyshak:** Under the provisions of Bill 119, are you aware of how many new workers are to be covered under that?

**Mr. I. David Marshall:** Yes. I believe that there are about 90,000 new employers that would come in, so maybe 250,000 new workers might be involved.



**Mr. Taras Natyshak:** Some 250,000?

How much time do I have, Chair?

**The Vice-Chair (Mr. Phil McNeely):** Could you speak louder?

**Mr. Taras Natyshak:** How much time do I have, Chair?

**The Vice-Chair (Mr. Phil McNeely):** Pardon me?

**Mr. Taras Natyshak:** Time?

**The Vice-Chair (Mr. Phil McNeely):** Your time is—

**Mr. Taras Natyshak:** That just took 20 seconds to figure that out. Anyhow, do you know what? I'm going to ask a personal question of the chair and you, Mr. Marshall. Do you agree with the previous chair, Chair Mahoney, who said that he frankly supports mandatory coverage for everybody who works in the province? Do you agree with that position in general?

**Mr. I. David Marshall:** There are a lot of good reasons for mandatory coverage for everybody, and Dr. Arthurs has pointed them out. This is really a policy issue that the government needs to look at. We'd be happy to help in the analysis. My opinion really doesn't count very much until the government decides that that's what they want to do, but we'll certainly help them. As you pointed out, most of the other provinces have, in fact, up to 90% coverage.

**Mr. Taras Natyshak:** And my time again was? Did we figure that out yet?

**The Vice-Chair (Mr. Phil McNeely):** You're in your last minute. You've got 30 seconds.

**Mr. Taras Natyshak:** I'm going to switch to an occupational disease panel, Mr. Marshall. Professor Arthurs recommended that the board re-establish a medical/scientific panel to help the board handle occupational disease issues. That recommendation is found on page 95. Has the board taken steps to re-establish this panel? If not, when will the board take those steps?

**Mr. I. David Marshall:** I'll just ask Mr. Slinger to comment on it, since—

**The Vice-Chair (Mr. Phil McNeely):** You only have a few seconds, so—

**Mr. Taras Natyshak:** A yes or no would suffice, almost.

**Mr. John Slinger:** Yes, it is an issue we're looking at.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. We'll go to the government now. Ms. Jaczek.

**Ms. Helena Jaczek:** Thank you very much. Mrs. Witmer, in your opening remarks you did refer to a new medical strategy. As a physician, that's certainly an interest of mine. Mr. Marshall did say that perhaps we could hear a little bit more about that. I would be very interested in having a little elaboration on what this is about.

**Mrs. Elizabeth Witmer:** Yes. We are seeing very positive results as a result of the new strategy. I think the other thing that has been happening is that there is increased access to health services more readily available to the injured worker in order that the individual can be assisted in getting back to work and getting back to work safely. I'll give Mr. Slinger the opportunity, since he's in charge of operations, to let you know exactly what has

been happening in the course of the last two years, but it is producing very positive results.

**Mr. John Slinger:** I think an important point was made by Mr. Marshall earlier, and that was that for about a 10-year period, we saw increasing durations, fewer workers going back to work, and increasing costs. We also saw a significant increase in prescriptions for narcotic medication, for example.

One of the first things we did in relation to a new medical strategy was to say that we have to start significantly limiting the narcotics available, specially at the early stage of more straightforward cases. We were seeing narcotics being prescribed for strains. Obviously, there is a time when narcotics are appropriate and a time when narcotics are not. Not only had we seen a significant increase, but it was also an increase in OxyContin, which, of course, is a long-lasting, especially addictive medication. We were beginning to see cases of injured workers who were as disabled from their addiction as they were from their injury.

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When we went down this road, we sought assistance from a number of sources. We sought the support of the Ontario Medical Association and various others, but not too many people were doing this. We believed it was important, and although we didn't get the OMA's endorsement at the time—they've since endorsed it quite heartily—we felt we needed to go down this road, and that was very important. That was an important first step, and we've started to see that play out in terms of, obviously, fewer prescriptions for narcotic medication.

The second part of the strategy was really to say, while we've invested in 300 more skilled professionals in the area of return-to-work, we need to support their work through early access to medical, and if in fact a worker is waiting for months to get referred to a specialist or months for a CT scan or other diagnostic, then obviously our ability to understand the diagnosis and begin to work with return-to-work was limited. We had a group of specialty clinics that we had contracts with, represented by a number of large hospitals who had clinics, including a number of teaching hospitals, but we needed to expand not only the number of specialties that they covered—for example, we didn't have a back specialty program, although low backs was our biggest single injury type. So we went out through a competitive bid process and actually doubled the number of specialty clinics and increased their geographical reach, so we now had them throughout the province, not simply in Toronto, where they had tended to be. It included adding CAMH, for example, and a number of others. Last year, we saw a significant increase in the number of cases we got to those specialty programs early, and that would help us clarify a case that seemed to be drifting, where the family doctor was not comfortable and didn't seem to know where it was headed. That has helped us tremendously, giving us that additional access.

I guess the third thing is, we took a look at our high-impact claims and we said that there are three kinds of



injuries which often result in chronic, long-term injuries: low back, shoulders, and fractures. Particularly when it related to low backs, many of those were soft-tissue injuries. The feeling was, with more effective care at the front end, a lot of those cases would not have permanent impairments; they shouldn't have permanent impairments. So we created some programs of care which were specifically best practice—more active rehabilitation and physiotherapy for low backs, for example. Last year, I think we increased the number of programs of care that workers went to by 2,500; again, very early treatment, evidence-based, solid literature support for what we were doing.

We also created our own special teams for low backs, for example. More recently, we've actually created a group of back examiners who can be involved even earlier than the specialty programs for some of the soft tissue cases, and that we just started in June.

All of this is really by way of saying, the better and earlier the health care, the earlier our involvement, the fewer narcotics that workers are given, the more work site visits and the more we encourage rehabilitation at work—in other words, better at work, which again is consistent with the literature—the better the outcomes will be for injured workers.

Those are really some of the things we've done by saying that return-to-work and medical support have to be integrated. That's really been the model that we've pursued.

**Ms. Helena Jaczek:** Thank you. You've alluded to contracting out to various clinics, institutions and so on, but amongst the 4,300 or so employees of WSIB, could you just categorize them? How many have a health background? What sort of medical expertise do you have within your employees?

**Mr. John Slinger:** Right. We have about 200 nurses. The largest single group of staff is case managers; we have about 750 or 760 case managers. We have 300 return-to-work folks, and we also have a small group of medical physicians. We had a larger group—at one time, we had as many as 30 or 35 physicians within the board, but as those folks retired, we were finding it harder and harder to recruit younger physicians. We wanted physicians with clinical experience and clinical background who were willing to come to the WSIB. We decided we needed to look at a model which allowed physicians to work for us, but to work in a variety of other settings at the same time. So we went from an internal model, which often took us 30, 60 or more days to get a medical opinion, to a model that now has a number of physicians who, through an RFP, have joined our organization in a part-time capacity, and who are now getting opinions back to us within five days. Again, we don't have the kind of retention and attrition problems that we did in the past. That was started about a year ago, and it, again, has been very helpful to support staff.

**Ms. Helena Jaczek:** Just to follow up on this whole efficiency, have you instituted electronic medical records?

**Mr. John Slinger:** Well, all of our transactions with our panel of external experts are through that method, and we certainly have electronic reporting, but I will say that we haven't had the uptake within the medical community that we had hoped for, and we are working with the OMA on what we can do to improve that. We have the ability, but not necessarily all hands on deck, as it were, to make this work. So we're working it.

**Ms. Helena Jaczek:** How much time, Mr. Chair?

**The Vice-Chair (Mr. Phil McNeely):** You have half a minute.

**Ms. Helena Jaczek:** I wanted to actually follow up on this occupational health panel, the scientific panel. The intention is to re-establish that. Why was it discontinued? Because I believe there always used to be one.

**Mr. John Slinger:** Yes. Legislation provided for it up till 1998, and the legislation was changed.

Now, in fairness, we have very close relationships with St. Michael's Hospital and McMaster medical centre. We use a number of pre-eminent specialists to provide us with advice and assistance. We also have scientists who work at the WSIB who do literature searches, and we provide a grant to Cancer Care Ontario. So it's not as if we have been missing in action when it comes to this work; it's just that we haven't had a specific panel in place. But we have gone outside consistently for the best advice and evidence we can get as it relates to occupational disease.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. We'll go to the final round of 10 minutes and to the official opposition. Mr. McDonell.

**Mr. Jim McDonell:** Thank you. There are many times your benefits have increased. You talked about it being up \$1 billion, which is about 15% of the increase that we've seen the last five years of \$6 billion or \$7 billion—a doubling. Now you're looking at bringing these small operators that are not part of this deficit, that have been able to get a better deal, basically, through private insurance. I'm just worried about the sustainability. Is it practical to think—as you say, it's intended that they'll be neutral coming on, but really, they've got to be part of the system that pays this deficit. Is it fair to them to bring them on? Obviously, from my understanding, very few of them are signing on, and will be forced to at the end of the year through threat of penalty. Is this sustainable, and is it fair to bring these companies on and ask them to pay for the deficit that's been created by other companies?

**Mrs. Elizabeth Witmer:** I appreciate the question, Mr. McDonell. I guess the only thing I can remind you of is the fact that this was a decision made by the government. Our responsibility now is to implement the legislation of Bill 119. So we're doing the best that we can in order to follow through on the direction that has been provided for us.

A suggestion was made that these individuals, obviously, if they are already paying insurance, need to work with whoever the coverage is provided by and make sure that they're not paying twice for the same



coverage in the workplace. But this was a government decision.

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**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** My question is around the fairness of the imposing of Bill 119. I come from a rural riding which thrives on small business, and this is deemed, as of January 1, to be an extra burden.

I'll give you an example. I was speaking to a contractor from my riding, and his wife is a partner in the company. She's responsible for his books. She's an administrator, for lack of a better term, and he is going to be faced with the burden of paying the same rate for his wife, who picks up a pen, as his employees, who pick up a hammer. He just shakes his head. He wants to know: What is the rationale behind that and where is the fairness in this?

**Mrs. Elizabeth Witmer:** I'm going to ask Mr. Slinger, because there is a difference.

**Mrs. Donna H. Cansfield:** There is a difference.

**Mr. John Slinger:** We have been working closely with the employer community developing policies around the legislation, and there will be differential treatment in different situations like you have talked about. I think we are just preparing to get out with major communications on this. I hope very shortly we'll be able to satisfy some of your constituents' concerns around how this will work. Again, we have paid a lot of attention to the advice we've received from the business community, and we will look to make this work as well as we can for everybody involved. Obviously, it's important legislation, and we need to administer it fairly and we need to communicate it well. That's certainly our goal.

**Ms. Lisa M. Thompson:** But do you not feel it's like double-dipping, because out of one pocket he's paying his own insurance provider, and out of his other pocket he feels an extra hand, which is coming from WSIB?

**Mr. John Slinger:** I think I would suggest that you wait to see the policies that have been developed, because I think there has been an effort to make them fair and understandable. I hope some of the concerns that you're hearing will evaporate.

**Ms. Lisa M. Thompson:** Okay. And the timeline for those policies being released?

**Mr. John Slinger:** Very shortly. I believe they have just been approved, and we have a communication plan that has just very recently been signed off. So we expect very shortly to be out with those.

**Ms. Lisa M. Thompson:** Okay. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Leone.

**Mr. Rob Leone:** Going back, Mrs. Witmer, to something you mentioned in your comments and commentary with respect to the premiums and the unfunded liability, you said that there were no easy solutions. I'm wondering if you could elaborate upon the range of solutions that the WSIB is potentially contemplating, whether it's annuitization or other means, to bring down the unfunded

liability to a level that hopefully will reverse the trend of premium increases.

**Mrs. Elizabeth Witmer:** Sure. Well, I think you've probably heard in the course of the conversation today that certainly premiums are not the only focus, but, unfortunately, premiums will have to increase in order to pay off the huge unfunded liability that accumulated in the past. But I think you've also heard comments today about the increased efficiency of the system and how we are ensuring that, obviously, claims are being processed more quickly; there are fewer claims in the system. We're doing everything we can in order to run the operation in a way that is fiscally responsible and accountable.

As has been mentioned already, there are some employees who, unfortunately, will not be with the organization in the future as we try to streamline and transform the organization in order to reduce administrative costs as well.

So, you know what? I think with the improved services, better service, faster services, e-services, making sure we get the workers back to work, making sure that employers have access to the system 24/7, we are doing all we can. I don't know if Mr. Marshall wants to add, but certainly we're looking at every possible way in order to reduce the expenditures, and we have turned the corner.

**Mr. Rob Leone:** A further supplementary to that question: To what extent has the WSIB considered leveraging the private sector in any of these ideas for reducing the costs in the administration of the program?

**Mrs. Elizabeth Witmer:** I'll give Mr. Marshall the opportunity, since I know that in the past two years he has been looking at how we can minimize our expenditures and be more fiscally responsible.

**Mr. I. David Marshall:** Yes. We're constantly looking at where we can partner with the private sector to get things done more efficiently. We recently—

**Mr. Rob Leone:** And how about partnering? You said modelling, but how about partnering with the private sector—partnering in addition to modelling?

**Mr. I. David Marshall:** For example, we're in the process of outsourcing all of our data centre and IT work. That's a big leverage of the private sector. John Slinger talked about leveraging physicians in their own offices, giving them electronic access to our records in order to provide better service and so on. There's that going on throughout the organization where that's appropriate. Where we feel it's a core competency of our own, we've actually in-sourced services; for example, the return to work of workers.

Maybe if I can pick up on the intent of your question, because it links to an earlier one you had, which is, for example, co-insurance or somehow annuitizing part of our liability and so on: Our chief financial officer has been looking into that. As Mrs. Witmer said, there is no silver bullet. Anybody that wants to take on any of our debt wants to make a profit, so they want to see that whatever they give us in exchange for taking on any of



our liabilities will fully cover them for their risk plus make a profit. It has never turned out to be really a good avenue. I think even Harry Arthurs has touched on it in his own report when he talked about submissions he got on this basis; for example, raising some bonds on the market and paying off the liability. Whichever way you look at it, there's an amount of money that has to be paid. It's money that hasn't been paid in the past; it has to be made up now. If we can do it efficiently, that's the best route, because anybody else getting involved adds overhead, adds profit and so forth, and it certainly adds to the total cost.

**The Vice-Chair (Mr. Phil McNeely):** That's the end of your time. We'll go to the third party and Mr. Natyshak.

**Mr. Taras Natyshak:** Thank you, Mr. Marshall. I just want to pick up on something that I'd heard from Mr. Leone's question. You mentioned that you were in the process of outsourcing data. Can you expand on that just a little bit? Who is that data going to? Is it sensitive information? Is it client information? What's happening there?

**Mr. I. David Marshall:** What I was referring to was outsourcing the management of our data centre, which will remain in Ontario. We are in the process of contract negotiations with the successful bidder. This is something that is being done by almost—well, a great many businesses, in order to be able to cope with the demands for computing that businesses have today.

**Mr. Taras Natyshak:** Can I stop you there? Will potentially sensitive client information be sent and managed by this new outsourced company?

**Mr. I. David Marshall:** Yes, this company will be managing our computer centre in which our systems will be lodged. We have some very strong privacy and control features built into the contract. Today, data is going all over the place—

**Mr. Taras Natyshak:** That's my fear.

I'd like to move to the issue of rate-setting. Professor Arthurs made a number of recommendations to inject more integrity into the board's rate-setting process by protecting against government intervention: recommendations 4.4, 4.5 and 4.6, explicitly. Does the board endorse these recommendations, and what steps have you taken to implement them?

**Mr. I. David Marshall:** In fact, the government has taken heed of those recommendations. They've put right into law that certain levels of funding have to be reached and that the WSIB must submit progress reports towards that. That's a big discipline that never existed before in the 100 years of the service. They've also amended the legislation to remove certain sections that gave the government power to dictate policy at WSIB, and I think Mrs. Witmer as well has had conversations with Minister Jeffrey. I think there's a very clear understanding in the government that the WSIB should be independent in setting the right amount of premiums to cover the cost.

1040

**Mr. Taras Natyshak:** Enveloped within those recommendations is the concept of a chief actuarial officer that would be independent and hopefully insulated from political interference. That's the concept. Is that something you think is a valid concept, and if so, how quickly would you move to ensure that that comes about?

**Mr. I. David Marshall:** Right. Absolutely; we think that that is a very important issue. Our chief actuary at the board—and we had one—has just retired. We're in the middle stages of recruiting a replacement. We also have put together an actuarial advisory committee of prominent actuaries outside the board, and in fact, we regularly take to them the actuarial assumptions that are being made by our own staff and have them debated and take their advice. So this is a very, very important part of our work.

**Mr. Taras Natyshak:** I understand that the WSIB also retained a private consulting firm, Eckler Ltd., to provide a concept design paper for funding to submit to Professor Arthurs. The paper suggested a system called ring fencing to isolate the cost of old claims from the cost of new claims. Am I correct in that concept?

**Mr. I. David Marshall:** Yes.

**Mr. Taras Natyshak:** When you proposed this ring-fencing system, I take it you were aware that there was a similar system that was adopted in the state of Nevada. It was the first step towards what we ultimately saw as the privatization of the workers' compensation system in Nevada. I'm hopeful that this wasn't the board's intention in adopting this ring-fencing model, in terms of a movement towards privatization of our compensation system.

**Mr. I. David Marshall:** I can give you complete assurance that that was absolutely not the intention and is not the intention of the board.

**Mr. Taras Natyshak:** We'll move to my colleague.

**The Vice-Chair (Mr. Phil McNeely):** Miss Taylor.

**Miss Monique Taylor:** Thank you very much. I would just like to move back a few moments to when Ms. Albanese was discussing quantity and quality. I'm going to take you back to my constituency office, where I personally met with a person who has been injured at work, has a brain injury, has been off for many years. They forced him into school, which—he didn't even complete his testing and somehow passed the course and has been deemed ready to go back to work. Let me tell you, I literally had him across my desk, and he is in no shape to be deemed as a convenience store worker.

Where do we come up with the quality? Where is this structured, where someone has the right to say they're qualified to go back to work? Where does that come from?

**Mr. I. David Marshall:** We actually do a lot of work—I'm not aware of when this occurred, but just to answer your question, we work with the employee. At least certainly in more recent times, we look at the training that they have received, we look at the labour market conditions in the area in which they are, and all of



this goes into the decision-making. I guess we'd have to look at the specific case to see what happened.

**Miss Monique Taylor:** Just to let you know, his mom was sitting there with him, because he can't live alone. He gets lost in his own house, and they've deemed him back to work, saying that he should be back to work, and they've cut his benefits to \$200 a month because of this. That's something that I hope we'll be looking at.

How much time do I have, Chair?

**The Vice-Chair (Mr. Phil McNeely):** Three minutes.

**Miss Monique Taylor:** How many?

**The Vice-Chair (Mr. Phil McNeely):** Three.

**Miss Monique Taylor:** Interesting. There was something else I wanted to hit on. We were talking about the medical needs and costs. Again, I'll bring you back to a resident who visited my office. He's got serious injuries: A ladder fell two storeys and hit him from above, so he will never work again. He has severe injuries. Yet when he goes for physio and for therapy, he's deemed that he's able to have block sessions. Once he uses those sessions up through the year—he doesn't need it just for six months or for three months, period; he actually needs it timed out to when he needs it during the year. How is it that we come to the fact that, "No, once you start your sessions, you have to finish, and that's it for your year"? Any comments on something like that?

**Mr. John Slinger:** Yes. Again, I wouldn't know the individual case, but our policies are pretty broad and are administered through our nurses, and generally, it's necessary care. If this is a case that needs to be looked at, by all means, we can look at it.

I will say that these are the kinds of issues that we receive through our fair practices office. Our fair practices office has, I think, been in existence for about eight years, and they have consistently told us where there are areas to improve on. I think we have a very good relationship, and we were very pleased with the fact that last year, the number of cases that our fair practices office recommended action be taken on by the board actually was down 20% from the year before, which we think is very positive. In fact, the number of cases where action was required was, I think, the second-lowest over the last six years.

Again, there will always be cases that we need to look at again, but we feel that overall, the trend of a lower number of cases requiring action is a positive one.

Similarly, of course, there is always an appeal right, and we also are very positive about the fact that, while these changes have been taking place—and obviously, expectation-setting has changed, to some extent—the reversal rate at appeals has actually gone down, which, again, is an important check and balance for us as we see how this is playing out over this system of workers and employers.

We make about a million decisions a year, a little over a million decisions a year, but we know we will be judged not on the ones we do well, but on the ones we don't do well. The question is, what do we do to fix those

cases that we don't do well? That, I think, is an important issue for us.

**The Vice-Chair (Mr. Phil McNeely):** Time is up. Thank you.

The government and Mrs. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you for coming. It's been a really enlightening opportunity for us to have an understanding about the further workings.

I guess I'd like to start by saying, first of all, kudos. I mean, for the first time in 14 years, wow, we've got a surplus. I think that should be celebrated, quite frankly. That's a long time in coming. Every government has had a little fine hand in the WSIB, so nobody sits back here being sacrosanct. I think you should be congratulated for the work that you've accomplished in a short period of time.

One of the things I learned and which I didn't realize is the issue around the outsourcing in 1998—and yet you're still doing some outsourcing on the IT data. Obviously, there are lessons to be learned on what to do and what not to do, and I would be really interested at some point in having a conversation about the lessons learned on the outsourcing issue.

I wanted to ask a couple of questions. We've heard a lot of chat about the premiums and how they're high in Ontario, yet they're not mandatory for all sectors. Certainly some sectors have a higher incidence of injury than others, so supposedly they're going to pay a little bit more in their premium than others. But if I were looking—I took the chart and I looked at \$2.27 per hundred, roughly, in 2010, I think it is. If you were to do a comparable, what kind of a comparable are we looking at? Are we looking at a dollar? Are we looking at cents, pennies, dimes, nickels?

**Mr. I. David Marshall:** I would be happy to answer that. Premium rates today, if you adjusted for inflation, are actually very, very low historically. They've been coming down. Today the premiums are \$2.40 for this year, and they were \$3 back in 1994 and 1995. When you adjust for inflation, that goes up to about \$4 or \$4.50, so comparatively, premiums are not high, but they are high relative to the other provinces. And when you look at that, you'll find that almost 74 cents, or 30%, of the premium is due to paying interest on the unfunded liability. When you take that away, our premium would be \$1.61, which is very comparable with the other provinces. I think the Canadian average is \$1.96, so we'd actually be below the Canadian average if we didn't have this thing to carry.

1050

**Mrs. Donna H. Cansfield:** And you're working on that. That's excellent.

One of the other things I looked at is that—I can understand that in 2008, because of the economy, there was an issue around the bad debts, but you actually took the bad debts down from \$86 million to \$56 million. That, again, I think, is commendable. So I'm curious as to what approaches you've done to attack that deficit on the unpaid liabilities.



**Mr. I. David Marshall:** You mean just for the bad debts?

**Mrs. Donna H. Cansfield:** Yes.

**Mr. I. David Marshall:** Well, again, I mentioned we have specialized teams. This team is based in Hamilton and it focuses on early contact with employers and being able to get them to comply and get them to pay the dues that they owe. We're also trying to make it easier for employers. For example, there are a lot of small businesses—many, many thousands—who pay us less than \$1,000 a year. Requiring them to file quarterly payroll reports and quarterly premiums and so forth, when they're trying to run their own businesses and they're small, is something that we should probably take a look at. Under John Slinger's leadership, the team that looks after the employer accounts is working on being able to offer small employers just an annual filing, so that you do it once a year, you collect the money once a year, and you don't have all this collection going on throughout the year. In fact, that makes up the biggest number of accounts that need to be worked on. So we're trying to, in a sense, not simply sit back and say, "Here's what you have to do," but to work with employers and try to make it easier for them.

**Mrs. Donna H. Cansfield:** Excellent. There's been a fair amount of chat about Bill 119. I think, if I can remember correctly, in 2008, the underground economy in Canada was 2.2%, which is about \$36 billion. That's 2008, so I think it's probably gone up a little bit. The biggest challenge is that you have employers that are not really fulfilling their legal obligations, if you like. So this is actually attacking a very significant portion of the underground economy through Bill 119. To be honest with you, I have a lot of time for this bill, and the reason is because we have a lot of seniors in our future, much less today, and so small contractors are critically important to a senior who, by nature, tends to be very trusting. So there is the issue of insurance, but there is the issue of credibility and, of course, if there's an injury, there's the support of the WSIB.

I have a couple of questions. One is—and I don't know if you've given any thought to this—how you could somehow market that through to that particular demographic, the need to ensure that they deal with credible companies who have this kind of coverage in the event that something, unfortunately, occurs on their site. Because you know what's happening: The homeowners are getting sued, and these are seniors who do not have any money. So it's taking their future livelihood. This is happening more and more and more, so by putting in the credibility of Bill 119, requiring small businesses to have the legitimacy of WSIB and getting that out, marketing and educating the seniors and the community about this, I think could do a whole lot to help people understand the need for Bill 119. Because there's no question in my mind that seniors are getting duped left, right and centre.

**Mrs. Elizabeth Witmer:** And I don't disagree, Donna. There is a risk today. You know, seniors are very, very vulnerable. They're not aware of the fact that before

they have work done, they should be requesting and making sure that the individual, the company, however many employees that it is, have WSIB coverage, because there is a certain liability, and they could be sued. The underground economy is there, and this bill, I know, was intended to respond to that underground economy and to create a level playing field for everybody. So you make a valid point.

Whether or not there has been any attempt on communication, I'm not certain, but I think Mr. Slinger has indicated that we will be coming forward with policies and a plan, because we now have the administrative responsibility to implement the bill, and the goal, obviously, is to have everybody registered by January 1, 2013. There is a need to raise awareness. In fact, this past weekend, when I was up in cottage country, there were some employers who spoke to me, and I will tell you that they recognized that they needed to register and they were going to do so. But we need to let people know how and why this needs to happen.

**Mrs. Donna H. Cansfield:** I think Drummond actually mentioned in his report that the finishers themselves were about \$700 million, because they hadn't fulfilled their statutory obligations and this will actually require that. So that also will help you in terms of making sure, because there's no question that people will still go forward with an injury, but if they're not under the right statute or the right part of the legislation, then you're skewed. So it's going to work both ways.

**Mrs. Elizabeth Witmer:** Exactly. And I know that as I've been meeting with stakeholders, particularly in the construction industry—that's one of the things I've tried to do in the past month and a half, as I say: go out to workplaces and meet with different associations and staff. I've certainly been communicating and trying to make them aware of the fact that they have this obligation and that the board now is in the process of registering those individuals who must be registered by January 1. But we're certainly going to have to increase our efforts and do all we can to raise awareness in order to ensure that people are registered, as the law requires. It does afford protection to the homeowners, who, as you say, are sometimes quite vulnerable.

**Mrs. Donna H. Cansfield:** Well, you know, I think—

**The Vice-Chair (Mr. Phil McNeely):** Time is up.

**Mrs. Donna H. Cansfield:** Thank you. Anyway, I'm delighted you're doing such a great job. Well done, and good luck.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Ms. Witmer, Mr. Marshall and Mr. Slinger.

#### ONTARIO LEGAL CLINICS' WORKERS' COMPENSATION NETWORK

#### ONTARIO NETWORK OF INJURED WORKERS GROUPS

**The Vice-Chair (Mr. Phil McNeely):** We'll now go to the stakeholder presentations. The first presenters are



the Ontario Legal Clinics' Workers' Compensation Network and the Ontario Network of Injured Workers Groups: Mr. McKinnon and Mr. Crevar.

**Mr. John McKinnon:** Good morning, Mr. Chair. My name is John McKinnon.

**The Vice-Chair (Mr. Phil McNeely):** Good morning, and thank you for being here. You will have 10 minutes to make your presentations, and then the first questions will be by the third party, then the government, and then the official opposition.

State your name for the purposes of Hansard and maybe introduce the people with you.

1100

**Mr. John McKinnon:** Yes, thank you. My name is John McKinnon. I'm here with the Ontario Legal Clinics' Workers' Compensation Network. With me from legal clinics is Ivana Petricone. Also sharing our time today is the Ontario Network of Injured Workers Groups: Mr. Peter Page, the president, and, at the other end of the table, Mr. Karl Crevar, the treasurer of the Ontario Network of Injured Workers Groups. Thank you for squeezing us all into this one time spot.

We're going to let the Ontario Network of Injured Workers Groups go first.

**The Vice-Chair (Mr. Phil McNeely):** State your name for Hansard and begin.

**Mr. Peter Page:** Peter Page, president of the Ontario Network of Injured Workers Groups. Good morning, and thank you for this opportunity to speak on a very important issue to injured workers. It's not only important to injured workers, but also to how we define ourselves as a nation as well as a province: how we treat our fellow human beings, those being injured workers.

I say this because injured workers have never felt more betrayed than they have by this current WSIB administration and government. Why do I say this? The Ontario Network of Injured Workers Groups, ONIWG, and its affiliate organizations have been inundated with calls from injured workers dealing with the WSIB. They, injured workers, are being denied the benefits they so rightly deserve.

The board's own statistics point to this loss of faith by the injured worker community. Their only crime is that they were injured in the course of their employment and, because of that workplace injury, are being marginalized and pushed into poverty.

Let me refer to the board's own statistics, which we presented in an open letter to the Premier of Ontario:

- initial entitlement, a 50% increase in claims denial rate;
- \$633 million in benefits cut;
- vocational retraining slashed from 19 months to five months;
- 29% reduction in long-term benefits for the permanently disabled;
- 31% reduction in permanent impairment awards;
- 4.5% reduction in medical expenditures on injured workers;

—of course, the layoffs to over 400 staff at the WSIB; and, on top of that,

—injured workers received only a 0.5% increase in their cost-of-living allowance.

We feel this is all because Mr. I. David Marshall wishes to get his 20% bonus per year, a bonus to be given at the end of his five-year term for accomplishing certain financial markers, namely the unfunded liability. Again, I refer to our letter to the Premier.

All these cost savings are coming on the backs of injured workers, another broken promise by the McGuinty government. Again I refer to our open letter, where Ms. Pendergast stated that full funding would not be achieved on the backs of injured workers. Well, I'm here to tell you that funding is being carried out on the backs of injured workers.

In closing, this government and the Workplace Safety and Insurance Board have abandoned those injured workers and their rights as injured workers. For that matter, the historic compromise where we as workers gave up our right to sue our employer in exchange for fair and just compensation is being reneged on by the employer community as well. Thank you.

Karl?

**Mr. Karl Crevar:** Yes; good morning. My name is Karl Crevar. Let me begin by saying that I'm really disappointed with the committee allowing the time allocation for presentations. You should be hearing from the injured workers in this province. We just sat through the exercise of the WSIB representatives for two hours in their presentation and responses. How can we justifiably say to you what injured workers are feeling and what they're experiencing in this province in 10 minutes?

I want to start off by going into your document when you say that the very basic principles of compensation have not changed. Well, they have. They were changed back in 1997 with the introduction of Bill 99. Previous to that, it was the Workers' Compensation Board; then it was renamed to the Workplace Safety and Insurance Board. We have experienced over the last 20 years the issue of the unfunded liability. Every time there's an issue that comes up with employers' rates, the unfunded liability comes up, and benefits issues come up—since 1990. In each case, benefits have been reduced to address the unfunded liability. Bill 162 eliminated lifetime pensions. The introduction of the Friedland formula cut back on cost-of-living in Bill 165 in 1995. In 1997, Bill 99—which the Minister of Labour at the time, Elizabeth Witmer, introduced—eliminated virtually any cost-of-living increase that injured workers get. In that proposal in Bill 99, \$9 billion was cut from injured workers' benefits. Injured workers have been paying the price for the unfunded liability.

I might add on to that as well that the benefits that injured workers were entitled to get and were not getting—those costs were shifted on to the taxpayers of Ontario.

We hear constantly—and right now we hear again, from Mr. Hudak and Mr. Hillier—that there's too much



on the WSIB, too much in benefits going to injured workers, and we have to address this. Those are the same words—I've been around for 20 years—that we hear every time there's an issue that comes up.

I would like to go on to some of the comments by Ms. Witmer. All we heard—all I heard, and please correct me if I'm wrong—through the whole discussion, the presentation and the questions, 95% of it was geared towards employers' concerns, and 5% was what's happening to the injured workers. Nothing was mentioned about what is actually happening to injured workers.

When we hear that revenue exceeded the expenses, where does that come from? We see the increase in poverty of injured workers today, not a decrease. As Peter had pointed out on some of these statistics, they are the board's statistics, not our own. They show clearly that the board has gained an advantage, and it is by cutting benefits. We know that is happening today.

Mr. Marshall, through the KPMG report, and the board of directors or whoever's responsible drove this train through on the recommendations without consultation; we were not even aware that that document existed until last October. Yet we're facing this crisis. At the same time, they hired Professor Arthurs to do a funding review. While all this was going on, the train was moving ahead with implementing recommendations of the KPMG report, and those recommendations contain cutting benefits, cutting service providers.

As was indicated earlier today, 400 staff have gone. What we're going to be facing is robots: You put your credit card in there or whatever, and you're going to get a decision made by a machine on whether you get entitlement or not.

It's time that we all took a real hard look at ourselves. We keep blaming injured workers and their families, not understanding what they're going through. I heard the words very clearly a number of years ago. Someone said that we want a much kinder Ontario, a kinder and gentler Ontario. That's the Premier of the province, and it's the Premier that hired Mr. Marshall. It's the government that signed off the contract to give, for the first time that I know of in 20 years, an incentive to a president/CEO of a system of compensation. What does that say?

Injured workers have lost faith. I've talked to many injured workers. They've not only lost faith; they're down and out. They're telling you they are losing their homes—they've lost their homes. They've lost their families, are contemplating suicide. Pay attention to what's going on. This is what's going on in our society, in our communities today. It's destroying families and communities. I ask you, stop blaming the injured workers. It's not their fault; it's accidents.

When you talk about the unfunded liability, how many of you have an unfunded liability? Have you ever looked at it? Have you ever thought about it? How many corporations have enough money in the bank to pay their debts for the next 20 years? How many people here that own homes, that have a mortgage, have enough money to pay all their bills for the next 20 years?

This is nothing but political rhetoric and political pressure in attacking workers' compensation in this province. It's attacking the injured workers. It's time that has to stop. I would hope that you consider, in your recommendations, going back. The Premier of this province broke his promise to injured workers. As Peter said, when in the House, the government said that any cuts, any cost savings relating to the workers' compensation, will not be on the backs of injured workers. That's in your package, the letters that we sent.

1110

We've been doing this for over 20 years, trying to make things correct. We meet with the board. We meet with the government. We tell them constantly what is going on, and here we are again today, talking about the same thing. I think it's time to stop it; it's morally wrong. Too many lives are at stake.

I thank you for the time.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. You still have a few minutes.

**Ms. Ivana Petricone:** Thank you. My name is Ivana Petricone. Good morning to all of you. It's my honour to chair the Ontario Legal Clinics' Workers' Compensation Network. We are a network of lawyers and community legal workers that work in the legal clinics throughout Ontario, and we practise workers' compensation law. Our clients are generally workers who come from vulnerable work. They are not members of unions. They are often people who don't speak English or French and, as a result of many of the processes that they have to go through, are often struggling with mental health issues. Those are the clients that we represent.

We've conducted a survey of some of the network members. What we are hearing is that there is an increased number of negative decisions, particularly in the last six months. There are increased numbers of injured workers calling our legal clinics for help. There are workers whose income support is being terminated. What happens in those cases is that people quickly lose their housing; their families break down; they often develop psychological problems. Indeed, I've practised in this area for over 30 years, and there are few injured workers that I have acted for who have not developed psychological problems in this process. Lots of depression—as you've heard from Karl, suicide is a very big concern, and should be to you too.

You've heard from ONIWG about the WSIB's own statistics that show a huge reduction in benefits. We urge you to take steps to ensure that injured workers are not unfairly burdened by the WSIB's cost-saving efforts.

I'd just like to take another minute. I know that we're running out of time, but I would like to draw to your attention an analysis that our network did with respect to the KPMG report, which we see as a flawed report that should not guide the way for future changes. You'll find, at page 21 of the package that you've all received, a letter to the Premier, along with our analysis on the reasons why we think that the KPMG is a flawed report. We have indicated there that KPMG exceeded the mandate of a



value-for-money audit, failed to appreciate basic legal principles of workers' compensation, and in fact made recommendations that we consider would run afoul of the Workplace Safety and Insurance Act. It uses inadequate data to make its conclusions and ignores the legal rights entrenched in the statutory scheme. It also appears that this report is driven entirely by the sole concern of benefit reduction.

Notwithstanding the considerable flaws in this report, the WSIB has adopted a policy agenda which focuses on the very areas that the KPMG report recommends. So I encourage you to read our analysis and consider it with respect to the KPMG report. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you.

**Mr. John McKinnon:** Mr. Chair, if I may just touch on four points that are in our materials. We provided quite a bit of material for you to take a look at. One of the concerns that's noted in there is the delegation of all of the policy-making authority of the WSIB to the president and CEO. Our concern is that that doesn't really fit with the nature of a multi-stakeholder board with a representative board of directors; that concentration of power is not fitting with the original concept of the board of directors.

Also, of course, we're concerned that the Arthurs funding fairness recommendation regarding cost-of-living adjustments for injured workers hasn't been implemented immediately, as Professor Arthurs recommended.

We also wanted to draw your attention to some proposed changes to the appeals system which in our view are particularly draconian. A couple of them are highlighted in the materials. It involves the elimination of oral or in-person appeal hearings for many cases. There's a whole list of them in the material. It also involves actively discouraging appeals by asking injured workers to sign a declaration that if they go ahead with their appeal, they understand the board will go through other decisions in their file and may reverse other entitlements in the file, leaving them far worse off than they would be if they never objected to the decision.

In our system of justice, it's a fundamental principle that we have the right to our day in court, even to fight a \$20 parking ticket. But it appears that if you're an injured worker cut off compensation, you may not have the same right. Imagine if you decided to exercise your right to fight the \$20 parking ticket and you went to court and the judge or justice of the peace said, "Well, you have to sign this piece of paper here that says we might go back and look at other traffic and parking infractions, and we might reverse our decisions and you might go out of this courtroom a lot worse off than you were when you came in. Would you still like to fight your ticket?" The answer, I think, is obvious. There's going to be a huge cut in the number of appeals, unfortunately at a time when there are a lot of negative decisions coming from the board.

We've heard a number of people refer to the Harry Arthurs report. One of the very important points which he uncovered was that the unfunded liability would have disappeared in the year 2006 had the employers' rates not

been reduced starting in 1996. So there's no mystery about why we're in the situation we're in today with the unfunded liability. It's purely due to the reduction in employer premiums that took place after 1996.

The other thing which Professor Arthurs raises, and we've heard this a couple of times today, is that you just can't make interprovincial comparisons of workers' compensation rights. It's not appropriate because of the different amounts of coverage. Even our own WSIB likes to hit itself on the head over having the highest rates in the country, as it says in its strategic plan, and you simply can't make that comparison. As Professor Arthurs points out, about 40% of the workforce in Ontario is not covered by workers' compensation. That 40% of the workers—people in banks, in the insurance and information technology industries—are the people who have the lowest rates in the other provinces that have higher levels of coverage. That's what brings down the average in other provinces. You simply can't look at the Ontario rate and other rates.

Professor Arthurs, I understand, is coming this afternoon. He has done a wonderful job at explaining many things. One final point that he raised, and we heard this this morning: Professor Arthurs described the problem with the experience rating system as a moral crisis. In our view, those are the types of issues that should be of top priority for the WSIB to look at in terms of its policy reviews. There is no crisis over the appeals system, over recurrences, over aggravations, over referrals for permanent impairments—the things which the board wants to proceed on—but there is a crisis with experience rating and also with expanding coverage. So we think those ought to be the top priorities for board reforms.

Again, thank you very much for the opportunity to make this presentation.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Mr. McKinnon.

We'll go to the third party and Ms. Taylor.

**Miss Monique Taylor:** Thank you very much, and thank you all very much for being here today. I think it's really unfortunate that the chair and the CEO decided not to stay and listen to these statements, because I was hopeful that that would be the process that would happen, that they would be staying for the entire day. To see that they've left the room is quite discouraging to me.

Anyway, Mr. Crevar, I understand your frustrations. That is the whole reason why I was determined to make sure I brought up two specific cases of the many that have come before my desk, and there have been many. So I was just wondering what your thoughts are on the quantity over quality of being forced back into the workforce.

1120

**Mr. Karl Crevar:** First of all, let me say: I'm not frustrated; I'm angry. As I indicated earlier, we've been working with injured workers as an organization for 20 years to see how human life is being treated. The equality of service is not as rosy as was indicated. It's a nice picture that was painted before; now let's get into a reality



check. That's why I say you should be having injured workers presenting to you. Let them tell you their stories of what is really going on.

I hope that answers your question.

**Miss Monique Taylor:** It does, and that's the whole point. I wanted to make sure it's on the record that the things that we see first-hand aren't quite the rosy picture that has been painted before us today.

Taras?

**Mr. Taras Natyshak:** I'll just pitch it out to all of you: I wonder if you could talk about the process of deeming and the effects that it has on injured workers.

**Mr. John McKinnon:** Well, sure. This is the fundamental problem with the system that allows it to exist and yet not fully compensate injured workers for their losses. The board makes a call as to what employment income the injured worker ought to be able to earn, and often we find that that's unrealistic. Miss Taylor, you raised some cases that you've seen. That's at the root of the system. Many people are deemed by the board able to return to work, sometimes at their same wage or even higher. I could show you examples of workers who are deemed able to earn a higher wage after a significant, permanent disability than they were earning before they were injured. As a result, the board can sleep at night by saying, "Okay, well, we're closing your benefits, but you can be earning this money." The reality is that they're not. The board is not looking realistically at whether or not a person is competitively employable.

It's a particular problem as cases approach the six-year lock-in point. Benefits are reviewed regularly for six years, and then there's a final review and the benefits will continue on until age 65. We found a number of cases where the board initially accepted that the injured worker was not going to be competitively employable, was not going to be able to return to competitive employment or any employment, but when the final review rolls along, all of a sudden they have a change of heart and they say, "You can do it. You can get back to work. There's something you can do. You can at least work minimum wage full-time." As a result, they're deemed to be earning a full-time minimum wage of whatever—\$15,000, \$20,000 a year. That's deducted from their benefits and they are left with virtually nothing.

This is going to be compounded by the changes in the appeals system. I think all of you are familiar with injured workers who have come to your offices, who have asked for help in various cases. Imagine if the only way they could reverse the decision they're unhappy with is to make an appeal in writing. I've met very few injured workers who would be able to accomplish that, and yet that's exactly where we're heading: into an appeals system where these injured workers, because there are certainly nowhere near enough representatives to help everybody, are going to be on their own to make an appeal in writing in the most complicated area of law that exists.

**Mr. Taras Natyshak:** I'm wondering if you know of any injured workers' advocates who are on the board or if that's ever been explored.

As well, you heard the submission by Mr. Marshall that, in looking at the rating system, they're going to be looking for submissions from stakeholders from various groups, workers and employers. Have you been approached to offer any commentary on not only that but any process within the operation of the WSIB? Have you various groups?

**Mr. Karl Crevar:** In the past we have. We've been asking to be consulted on some of the direction that the board is going in. I know there were statements made today by Mrs. Witmer that, yes, she had met with stakeholders. I can tell you, that's not correct. We have not met with her. We are meeting with her very shortly as an organization to have a discussion with her. We've had discussions in the past with David Marshall.

It's interesting. I want to get back to what John was just saying earlier when you talked about the deeming. Mr. Marshall made the statement himself. We're looking at cases of people that are going to be on benefits for 10 to 20 years; now they're being deemed employable. That's a fact of life. That's what they are doing, that's how they're saving money, and that's how you get the revenue over expenses. That's a clear picture. It's not just the other way around.

We are awaiting the meeting with the minister. We have met with Ms. Witmer. We have also met and expressed our concerns to the Minister of Labour on a number of occasions. In your package, you'll see letters that have been sent directly to the Premier expressing our concerns. I believe, at some point in time, not too long ago, I submitted letters to all of you, those letters that went to the Premier, for your consideration to look at, to raise the concerns that we have.

**Mr. Taras Natyshak:** Do you think a workers' advocate representative on the board of directors of the WSIB would be an added benefit? Has that concept ever been raised or addressed or even looked at?

**Mr. Karl Crevar:** I can tell you that we did have a representative from the Ontario Network of Injured Workers on the board of directors back in the early 1990s. That was terminated, and we're being again asked to—but I can tell you quite sincerely and seriously that we're thinking, "What is the point of having an injured worker on the board of directors? What's been going on?" I mean, we did have one. Unfortunately, the representative is ill and has had to step down. We have considered putting names forward to get an injured worker from the organization put on the board of directors. But, again, there are questions on the direction the board is going at right now. We have not heard any positive changes in terms of the recommendations from the Harry Arthurs report. All we've heard is the implementation of what's gone on with KPMG.

The issue of the government making a statement that they increased benefits by 0.05%: All that is, and I would remind members—and we appreciated, under the current



government, under Steve Peters, Bill 135, I believe, where for three years they agreed to pay a 2.5% increase based on the cost of living, because it was unjust. What we're seeing now for the year 2013-14 is 0.05%. Obviously, they're estimating that under the Friedland formula, the cost of living is only going to be 0.03%, but the most they're going to get is 0.05%. That's a 0.02% increase for people who are living in poverty. That's not fair.

**Mr. Taras Natyshak:** How much time do I have, Chair?

**The Vice-Chair (Mr. Phil McNeely):** You have half a minute.

**Mr. Taras Natyshak:** Would anyone else like to add commentary? Final thoughts?

**Mr. John McKinnon:** Well, I think you asked the question about the consultation process. The board has experimented with a number of different approaches to the consultation over the years. I think that it developed a very effective process in the funding review that was chaired by Professor Harry Arthurs. I'm hoping that the board will use that as a model for future consultations. That remains to be seen. Certainly the Arthurs report isn't anything, I think, that any of the groups who made presentations were totally looking for, but the process itself was respectable and allowed an opportunity for input, and that's the most I think that the various groups can ask for.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. We'll go to the government side. Ms. Albanese.

**Mrs. Laura Albanese:** Thank you for your presentation and thank you for all the work that you do. I know that your work is very valued by injured workers. I know that you work with the most vulnerable, with the ones who may have difficulty speaking English, with the ones who have disabilities and the ones who could probably not have their voice heard if it wasn't through your organization. So first and foremost, I want to thank you for the work that you do. Injured workers has always been an issue that I've felt close to personally. I know that they've had a difficult relationship with the WSIB historically.

What I would like to ask you, first of all—today, we make reference to the presentation that we heard earlier. Have you seen any difference, any improvement at all, in your relationship with the WSIB recently?

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**Mr. Karl Crevar:** I can answer that: no. We're attempting; we've made clear that injured workers are not happy with what is going on, and over the years we've continuously said, "Yes, we want to work with you. We want to sit down. We want you to hear what we've got to say." Has anything changed yet? No, it has not, and we are waiting to meet with the new chair.

I do recall Bill 99. She was the Minister of Labour who introduced Bill 99, and now she's being asked to undo what was done? It raises questions. Let's be honest about it. It raises a lot of questions.

**Mrs. Laura Albanese:** In your opinion, how can we improve this relationship? What can be done to improve it?

**Mr. Karl Crevar:** Again, I think one thing is that we all here have to recognize, when we talk about what the system is and who's responsible in funding it, that people gave up the right to sue their employers. That goes back 100 years. I know it's a difficult thing to do, but again, if you go back to 1997, when the rates were where they were—and I mentioned this to the former chair, Steve Mahoney. If the government had left those assessment rates alone at that time, we wouldn't even be here today doing a presentation to you. That would not be a problem. But unfortunately, that's the way it went.

**Ms. Ivana Petricone:** Could I add, Mrs. Albanese, that when I spoke about the KPMG report, it was very frustrating to us as advocates to hear, on the recommendations that came from this report, with all the problems that are outlined in our analysis, that the board decided to go ahead on revising those policies anyway. So that decision was not consulted on. If we did have some consultation at that point, it would have been better.

Secondly, I just want to say, with the decisions that are being made that I spoke of, what we're seeing in our offices is a real decline in positive decisions. It's reversing decisions, as my colleague referred to. It feels like what is driving these decisions is cost savings and benefit reductions, and not making good decisions on the cases of injured workers.

**Mrs. Laura Albanese:** So what we heard this morning about access to retraining and faster, better health care—improvements are not being seen by the injured workers that you see?

**Ms. Ivana Petricone:** I would say not, based on what we hear from our colleagues in clinics throughout the province and based on what the injured workers tell us themselves.

**Mrs. Laura Albanese:** Mr. McKinnon, you wanted to add something?

**Mr. John McKinnon:** Yes, if I could add, what Ms. Petricone has said is right. We see the cases of the people who are in difficulty, and they're not getting fewer in number; they are increasing in number. So there are still problems there.

One glimmer of hope, I think, in the future is that we all need to look more carefully at what happens to injured workers after the board makes these decisions, after the board closes your file, deems you able to go back to work or whatever. We need to track what happens, because historically, that's something that the board let slip, and its research department drifted away. There is a committee, which has only had one meeting so far, looking at tracking outcomes, and the board has indicated a willingness to consider this. We need to look at what happens to every single injured worker after we say, "All right, you can go back to work full-time at minimum wage." We need to follow through and see what happens, because if what we see in our office happening is seen by the board and by you folks, I think that people will



appreciate where the holes in the system are and where the problems are, and we can address that. So getting information about what happens after people's files are closed and they're cut off is extremely important. We need more research on that, and the information has to be public. The board has at some times in the past done some research, and it can be difficult, if not impossible, to get the numbers.

**Mrs. Laura Albanese:** Thank you. I'm going to pass it to my colleague Donna Cansfield now.

**The Vice-Chair (Mr. Phil McNeely):** Mrs. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you very much for coming and sharing with us your perspective. I think all of us have had injured workers who have come into our constituency offices.

I can't speak, obviously, for my colleagues, but I'll just share with you that one of the most frustrating things has been the length of time that it takes for the process to go through. So when I heard this morning that there was certainly a significant change in that, I know that the folks that I've spoken with in my constituency would be happy to hear that that is tightening up a bit and that it's not taking as long to go through and process the claims. So there obviously is one.

My perspective is one of injury prevention. Again, when I speak with the people we've chatted with in our office and we talk about how the event occurred and what could have been done to prevent it, injury prevention is paramount, even for those who are injured, because they want good, productive lives just like the rest of us. So how do we do that?

I'll also put on the record that I was chair of the SmartRisk foundation, which is injury prevention, so this is something I've had for a long period of time in my life. How can we work together as injured workers, as government, as WSIB, as unions, to promote more on the prevention side to limit the number of individuals who are being injured?

**Mr. Karl Crevar:** Let me respond first of all when you say, you know, the issue that injured workers come to your office about the length of time that it takes for a decision. Well, let me tell you, the victims of Chemical Valley in 1997: Many died as a result of being exposed in factories—not just workers; families. They're still waiting 20 years later for a decision. Why is that? Those are questions we're asking. Why is that? Twenty years: Spouses have died, some of the widows are on the verge of dying, yet decisions have not been made. Why is that? That's an issue we address.

On the prevention side, we've always advocated prevention. If you stop an accident, the costs aren't there. You look in your document at what we've seen. There are different ways of looking at numbers, but we've seen an increase in fatalities over the years—not a decrease; an increase. What's going on out there? We're asking those very questions.

We want accidents to stop, we want fatalities to stop, because we know what the consequences are at the end of the day. When we start looking at the numbers and

start looking at the charts, they just don't add up to that there's something that the board is doing that's happening out there to do all that. That's not preventing it.

**The Vice-Chair (Mr. Phil McNeely):** I'm afraid the time is up.

**Mrs. Donna H. Cansfield:** Thank you very much.

**The Vice-Chair (Mr. Phil McNeely):** We'll go to the official opposition and Mr. McDonell.

**Mr. Jim McDonell:** You referred to, during your discussion today, promises from the Premier and a friendlier and kinder Ontario, but you also say there was no consultation before some of these reports came out. Do you want to just elaborate on that, on something that we would have expected?

Through the KPMG report, you said no consultation was done with the injured workers. Was that in fact?

**Mr. Karl Crevar:** I can say we most certainly would have appreciated being informed of what the board is doing, which we weren't. Quite frankly, I am concerned over the so-called trumpets that are calling out there. That's what raises problems, when Mr. Hudak and Mr. Hillier—we invited Mr. Hillier to a June 1 activity to address the crowd, to address the injured workers who were expressing their concerns and wanted help. All that gentleman could say was, "It's nothing but bullshit." I wrote a letter to him and to his leader, Tim Hudak, to get an explanation. Why those terms when we invite him out there to give their perspective? We wanted their help, but we don't see the help coming.

**Mr. Jim McDonell:** My question was around the consultation. Did you have any consultation with the—

**Mr. Karl Crevar:** Not with KPMG, no.

**Mr. John McKinnon:** I could mention the KPMG report. It started quite innocuously because by legislation the board is required to have a value-for-money audit done of one of its programs on an annual basis, and the board picks which program. So they picked the adjudication program. That's how it began, but it evolved into much more than a value-for-money audit. In our submission, there's quite a lengthy, I think about 20-page, analysis of this, looking at what a value-for-money audit ought to cover and the ground that the KPMG report goes on. It goes far beyond the value-for-money issues to commenting on the level of benefits and the generosity of the board, which we felt was not appropriate in a value-for-money audit.

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There was no consultation, because there's not normally much consultation in a value-for-money audit, but it has turned into a policy direction for the board. KPMG identified, I think, about five areas: recurrences, aggravations, referrals for permanent impairments, and it also raised an issue about the amount of representation and the amount of appeals. They said that all of these things are costing the board too much money and identified those as areas that the board should look at. Sure enough, that's the board's policy agenda. There is no crisis in the areas of any of those policies; they're working quite fine.



It's just that they were identified as being too generous by the KPMG report.

Those issues are outlined in more detail in our submission.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you very much. As the government has struggled to manage the unfunded liability—I heard your message loud and clear—you feel the Premier broke his promise, because, essentially, the cuts at WSIB have been borne by the injured workers.

With regard to your open letter dated March 15, 2012, your last line reads, "Now is the time for action on your government's commitment." I'm wondering, have you received a response to your open letter? If so, what were the contents, and are you satisfied with the response?

**Mr. Karl Crevar:** Let me say, as I said earlier, we have written a number of letters to various governments. I want to remind you, the problem started, the unfunded liability, back in 1997 with the introduction of Bill 99. That was under the Conservative government. As I mentioned, Ms. Witmer was the Minister of Labour. However, again, it's not frustration; it's anger. When we write a letter to the Premier of the province, we ask for a response. Every time we write a letter, whether it's to the current Premier or it was to the previous Premier, it was always directed to the Minister of Labour: "Yes, thank you for your letter. We've read it and we'll get back to you," and so on and so on. Then we have our meetings and we bring up issues—never resolved.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Leone.

**Mr. Rob Leone:** Yes; thank you very much. Just a point of clarification, Mr. Crevar: You mentioned that the unfunded liability started in 1997. The stats that I have before me show that the unfunded liability in 1997 was lower than it was in 1992-93, where it was about \$16 billion higher than it is right now, actually. I just wanted to point that out.

But I actually want to touch upon the letter—

**Mr. Karl Crevar:** Could I just make a correction? I did not say the unfunded liability started in 1997. It took a downward trend.

**Mr. Rob Leone:** Oh, I thought that's what you said. Sorry. Thank you for clarifying.

I also want to point to the open letter that Ms. Thompson has referred to. You outline a number of cuts: initial entitlement, 50% increase in claims denial rate; a \$631-million benefit cut; vocational retraining slashed from 19 months to five months; 29% reduction in long-term benefits for the permanently disabled; 31% reduction in permanent impairment awards; 4.5% reduction in medical expenditures on injured workers; layoffs of 200 WSIB staff—we've learned that that's actually higher now.

With respect to the other comments that are made in this open letter, which are, as Ms. Thompson has outlined, that cuts will not be put on the backs of injured workers, which was a quote that you've taken from former member Leeanna Pendergast, would it be your position that any cuts, no matter how large the number,

how pervasive it seems that it is—that you would consider any cuts a broken promise on the part of the government: Would that be fair to say?

**Mr. Peter Page:** I think that we've always experienced cuts. Under the Conservative government, in Bill 99, there were a lot of cuts made to injured workers; and the fact that rates were reduced for the employers under Bill 99. And then, to regain that capital, it was the injured workers who had to pay for those cuts.

Any cuts to injured workers—we're continually fighting poverty issues for many of our injured workers. So when there are cuts, or when the government states that they will not be put on the backs of injured workers, and then we see these statistics, we have to ask ourselves—we have to say, "Yes, you are cutting injured workers' benefits." It's not just a cut in their loss of earnings; it's a cut in medical services that you heard about, that Miss Taylor spoke about. Sometimes, they just don't show up, but they're there.

John would like to answer that—

**Mr. Rob Leone:** So the message that you feel that this sends, essentially, to injured workers is that the government doesn't care. Would that be fair to say? Or would you speculate or put yourselves in perhaps the government's shoes: Do you feel that the government believes that there has been abuse, and that's why there needs to be efficiencies found?

**Mr. Peter Page:** Abuse by?

**Mr. Rob Leone:** Fraudulent claims, claims that have been awarded that are higher than what might be construed as appropriate and so on and so forth. Would that be the assumption when you see these cuts and they're finding these efficiencies? Is it simply just the government acting in a manner that just doesn't reflect the interests of the workers, or do you think that the government believes that there is some other reason for cutting these benefits?

**Mr. Peter Page:** So what you're saying is that when a person gets injured at work and puts in a claim, that somehow they're fraudulently doing that?

**Mr. Rob Leone:** I'm not saying—

**Mr. Peter Page:** I don't know how that can be, when you have this whole appeals process that takes forever for the worker go through, and who has to jump through every hoop to prove that they were injured at work, and at the end of the day there's either a yes or a no to that claim. I don't see how you could fraudulently portray yourself as being injured.

**Mr. Rob Leone:** No, what I'm suggesting, perhaps—

**Mr. Peter Page:** I think John would like to respond to that.

**Mr. Rob Leone:** Sure.

**Mr. John McKinnon:** On the abuse question, it's always something that's thrown around, but there has never been any significant evidence of abuse by injured workers. These cuts are not being introduced in any way to suggest that there's any abuse or overcompensation.

I think what this comes from is that there's a tendency to forget that the workers' compensation system is a fun-



damental part of our legal system, our system of justice. As Mr. Marshall quite rightly pointed out, the beginnings of workers' compensation was a historic compromise to take the compensation of workers injured in the workplace out of the courts and put it in a process that works better for workers and employers. But it still remains a part of our justice system, and it still remains the job of the workers' compensation system to provide compensation that's every bit as full and adequate and fair as they would get in the court system.

Sometimes people think that workers' comp is like some other board, that we're like social assistance, we're a charity, and, "We'll give the injured workers what we can afford, but right now we have to tighten our belts." That's not right, because it is a fundamental part of our system of justice, and injured workers have a right to full and fair compensation. I think that's where this comes from: People are forgetting that this is a fundamental principle of justice and a fundamental part of our court system.

We would certainly be concerned if we had the Chief Justice of the courts in here saying, "Well, I'd like to report that we have successfully reduced the size of the awards to plaintiffs and the frequency of claims coming through the courts" and things like that, because that's not an appropriate method of managing part of our justice system.

**The Vice-Chair (Mr. Phil McNeely):** Time has run out. I thank you very much for coming in.

The agency review committee is recessed until 1 o'clock.

*The committee recessed from 1150 to 1300.*

## ONTARIO FEDERATION OF LABOUR

**The Vice-Chair (Mr. Phil McNeely):** The government agencies committee will start. We have the first presentation, the Ontario Federation of Labour: Laurie Hardwick, Al Bieska and Joel Schwartz. Thank you for being here. You have 10 minutes.

**Ms. Laurie Hardwick:** Thank you very much. Joel Schwartz is with the Industrial Accident Victims' Group of Ontario, and Al is on staff with the Ontario Federation of Labour through the occupational disability response team, a project funded by the workers' compensation system.

I send regrets from our officers: Sid Ryan, our president; Nancy Hutchison, our secretary treasurer; and Irwin Nanda, our executive vice-president.

We appreciate the opportunity to speak to the standing committee today. We have a number of issues—and I apologize; our brief is on the printer at the OFL right now. That will be coming in later this afternoon. I have somebody bringing it down.

We cover a number of topics. I think there are about 10 areas we cover. We're going to cover only a few of them in our presentation to you here today, but each of our topics that we go through, from governance to all the different areas, has recommendations, and we're re-

questing that the committee look very closely at our recommendations and hopefully make recommendations to the government to move on some of these topics—many of those topics that are addressed in Professor Harry Arthurs's report.

The one topic I want to discuss first of all this afternoon is the issue of coverage. It was brought up this morning, and it was clear that even though it was not in the mandate of the funding review for Professor Arthurs, he did address the issue of coverage. It was pointed out by the board themselves that the occupational health and safety system is completely funded through the board, through the inspectors, the health and safety associations, the Institute for Work and Health, the Office of the Worker Adviser, the Office of the Employer Adviser, the Occupational Health Clinics for Ontario Workers and the Workers Health and Safety Centre.

Back in 2003, the board did a study on coverage. Brock Smith, a well-respected government official from former years, did a study and consulted widely with the worker and employer community. He came back in 2003 with a recommendation, in fact, to have mandatory coverage for all workers. That was ignored and nothing was done with it. So currently, 35% of workers in this province are not protected by the workers' compensation system, and we respectfully request that you, as a committee, recommend to the government that that gets changed.

Not only does it mean that 35% of workers aren't covered, but it also means that the other employers are getting a free ride. They're not paying for the occupational health and safety protection in this province. They're not paying if they get dinged by the Ministry of Labour and they get inspected. They're not paying for the costs of those services that our province is providing.

The other thing is that the Ministry of Labour uses WSIB statistics to target workplaces and do inspections. Well, those 35% of workers, the most vulnerable workers who don't have the protection of our system, aren't even on the radar screen of the Ministry of Labour when it comes to inspections. Their workplaces are probably less safe than any other workplaces in this province. So we really strongly recommend that you accept our recommendation to stand together as a standing committee and make the recommendation to have all industries covered.

When you look at banks and insurance companies, their premium rates will not be extremely high. Unions aren't covered, for example. We have voluntary coverage, and I think it's 17 cents per \$100 of payroll for the line of work that we do. So while banks and insurance companies cry broke and tell us that they don't have injuries, I'm sure they've got a lot of repetitive strain injuries in their workplaces.

I throw it to you now, Al.

**Interjection:** Okay, I think Joel was going—

**Ms. Laurie Hardwick:** Oh, you were going to go first? Okay, sorry.

**Mr. Al Bieska:** I'll quickly just deal with the one issue on the compensation for victims of occupational



disease. It's an issue that really strikes at the heart of justice and fairness.

The issue arose back in 1997 when the employer community challenged a practice by the WSIB to pay loss-of-earnings payments under section 43 of the Workplace Safety and Insurance Act to victims of occupational disease where their diagnosis came on after they had retired from work. Prior to that and going all the way back to 1915, the workers' compensation legislation had defined "disability" as being an impairment of earnings capacity. Therefore, the provisions of the legislation, specifically section 37 of the pre-1998 legislation, allowed for payment of compensation benefits to a person who had an impairment of earnings capacity but wasn't necessarily working. What the WSIB had done since 1998, when the legislation changed to strike out the definition of "disability" and introduce a new provision, section 43, on loss-of-earnings payments, was that they continued to practise the paying of benefits to victims of occupational disease where their diagnosis did come on after retirement.

That practice was challenged at the tribunal, and the tribunal, in their analysis, stated that in fact the board was misinterpreting section 43. The issue was also challenged at the Fair Practices Commission, which agreed with the analysis of the tribunal. Therefore, since December 2007, that practice has stopped.

The question I would have for the standing committee is, how does the WSIB or the government justify to victims of occupational disease that, where the evidence shows that their disease, on a balance of probabilities, was contributed in a material way that shortened their life and their quality of life post-retirement—how would we justify that they're not entitled to compensation?

Our recommendation is that the standing committee look at a precedent-setting provision in the legislation that's current that allows payment of section 43 benefits even though the worker may not be entitled to that. In our brief, when you get it, you'll see the analogy—subsection 41(13) of the Workplace Safety and Insurance Act, where, if the employer fails to comply with their re-employment obligations, a worker can collect benefits under 41(13) even if they're not entitled under section 43.

Our recommendation would be that the standing committee recommend a legislative amendment to section 43 that would allow victims of occupational disease to be paid section 43 benefits as if they were entitled under 43(1).

**Mr. Joel Schwartz:** Thank you, Mr. Vice-Chair. My name is Joel Schwartz. I'm here today to talk about two issues that arise from the recent funding review. The first issue is indexing for workers on partial benefits, and the second is the recommendations around experience rating.

First, Professor Arthurs's recommendations on indexation for workers on partial benefits were a compromise position. He acknowledged in the report that it was not full fairness—that it left injured workers without compensation for years of inadequate indexation. It didn't

address what has been, in effect, a longtime annual back-door benefit cut.

Given that Professor Arthurs's recommendations were already a compromise, we were very disappointed when the government responded with more ad hoc adjustments of less than what we anticipate the CPI will be. There are also no measures to deal with years and years of lost benefits.

We recommend that the government repeal the 0.5% indexation for 2013-14 and replace that with legislation that provides all injured workers full indexation going forward, and, moreover, that the government take steps to redress the wrong done to injured workers over many years.

Turning to experience rating, again, Professor Arthurs's recommendations here were a bit of a compromise. Certainly, workers and labour did not get everything that we were seeking, but one of the things we did get was recognition of a serious problem, which Professor Arthurs described as a moral crisis, and that was the board's long-time failure to deal with claim suppression and other abuses that experience rating creates. The board has had Professor Arthurs's report for around seven months, and we're not detecting any sense of urgency on the board's part around this issue. As my colleague Mr. McKinnon from the Ontario workers' compensation network mentioned, the board's attention seems to be elsewhere, fixing what we don't really think are problems.

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Experience rating has a profound effect on injured workers. It's crucial that representatives of injured workers and labour are involved in the redesign of the board's incentive system. So we were somewhat concerned this morning when we heard Mr. Marshall suggest that it was going to be employers in the prevention council. He later corrected himself, I acknowledge, but the concern is that he's not necessarily recognizing the important role that injured workers and labour must play in the redesign of that system.

So we would ask the committee to recommend that the board implement Professor Arthurs's recommendations on experience rating immediately and ensure that workers and labour are engaged in that process. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. You're just on time. That's great.

We'll move to the government. Ms. Albanese will have the first questions.

**Mrs. Laura Albanese:** Thank you for your presentation and for being here today. I wanted to start by asking you how important it is, in your opinion, that the WSIB balance the unfunded liability that it has.

**Mr. Joel Schwartz:** I'm not sure what you mean by—if you mean by "balance," "eliminate"?

**Mrs. Laura Albanese:** Yes, eliminate.

**Mr. Joel Schwartz:** Our position has always been that it's not necessary to eliminate the unfunded liability, that steps should be taken to get the board into better financial



health than it is today, but that there's no need for what we call prefunding.

**Mrs. Laura Albanese:** But at least getting past what is perceived as the tipping point?

**Mr. Joel Schwartz:** That certainly makes sense, and certainly what Professor Arthurs said on indexing, in particular, was that that was an issue that didn't need to wait until we were past the tipping point.

**Mrs. Laura Albanese:** And what is your opinion on raising the premium rates?

**Mr. Joel Schwartz:** I agree with Professor Arthurs's recommendations. I think it's absolutely necessary and long overdue.

**Ms. Laurie Hardwick:** It was politics, quite frankly, that lowered the premium rates and caused the 21% cut in benefits to injured workers. The employers' premium rates went from \$3.20 down to just over \$2, and that's what created this unfunded liability. The Auditor General, in 2009, stated clearly in his report that had they left premium rates alone and not played politics with the premium rates, we wouldn't be in this situation today and injured workers wouldn't be living in poverty today.

**Mrs. Laura Albanese:** Yes, and I think we all agree on that, that there has been political interference in that.

I wanted to ask you also what your opinion is in regard to the industries that right now, currently, are not covered by the WSIB, and if you think the government should be expanding the coverage to those industries.

**Ms. Laurie Hardwick:** Absolutely. We believe that for the industries that are not covered, we should have an exclusionary system, instead of the way it is: If you're not in the act in 1914 and the regulations, then—you know, some of these industries weren't around, and as the world changes and our economies and our jobs change, there are many jobs that are not covered. Those workers deserve the protection, and those employers should be paying into our prevention system.

**Mrs. Laura Albanese:** And in regard to the rebate program, do you think there should be a program for companies with good safety records?

**Ms. Laurie Hardwick:** Traditionally, the position of the labour movement has always been to eliminate the experience rating program. However, we sat down a couple of years ago and decided that we have to face the political reality. We sat down as a group of injured worker representatives and labour and we tried to figure out what could work as a stick and a carrot that would actually help improve health and safety in the workplace. We sat down, and then we started meeting with the board when Tom Beegan was there, when they still had prevention, and John Slinger. We had some really good discussions about what kind of a system could the employers live with, could we live with, that would actually improve health and safety and not give rebates to employers who are killing workers or maiming workers.

We did a study a number of years ago. We called it *The Perils of Experience Rating: Exposed!* What we did was to ask the board for a bunch of statistics on the experience rating rebates and surcharges, broken down

by employers. At the same time, we had the Industrial Accidents Victims' Group law students from U of T go through those and the Ministry of Labour fines. We found that all these employers are getting fines over \$100,000 for health and safety violations by the Ministry of Labour. At the same time, they're getting a cheque for twice as much as a rebate from the workers' compensation board because they're hiding the claims; they're not reporting the claims. So when we brought that out—and finally we got it out in the *Toronto Star*—we actually got some attention, and experience rating came.

When we were at Professor Arthurs's review, when he was showing us what he was thinking, he actually made us sit with the employers, and we actually agreed to do it. I was explaining to some of the employers I was sitting with at the table about the excellence fund that we suggested. Instead of giving a rebate that's going to line the pockets of somebody, if we see that this workplace has got a lot of back injuries—for example, it's a nursing home, and they've got all kinds of back injuries but they can't afford to put lifts in. Why not give them a grant or a loan to put the lifts in to avoid the injuries in the first place, going over and above what's required under the Occupational Health and Safety Act? Some of the employers were going, "Wow, it's a good idea."

If the board is going to go ahead with this consultation process, as was mentioned this morning, and actually give us some input, we, as the labour movement, who have better qualifications in health and safety than any employer out there—quite frankly, on health and safety, I think we sit on the side of the angels because we care about the workers. Give us a say in how to design a system that's going to protect our members.

**Mrs. Laura Albanese:** This morning, we heard from the WSIB. The chair especially said that she's been out-reaching to stakeholders and doing consultations. Have you met with them yet?

**Ms. Laurie Hardwick:** Yes. Sid Ryan, our president, did meet with her. I'm on the Labour Injured Worker Advisory Committee with the chair, and we did have a meeting with her just a couple of weeks ago and expressed some of our concerns around these issues.

**Mrs. Laura Albanese:** How is the relationship? Has there been a little more openness and transparency in your relationship, the way we heard this morning from the WSIB?

**Ms. Laurie Hardwick:** Well, with the past chair we had a good working relationship as well. So it's a new relationship. Shall we say it's not as comfortable as the old shoes yet because they're brand new? So we shall see.

**Mrs. Laura Albanese:** Okay. So no recommendations on how to improve that relationship between the WSIB and federations such as yours, in general?

**Ms. Laurie Hardwick:** I think there needs to be some more transparency. We've expressed a lot of concern over the consultation process.

They have Harry Arthurs do this beautiful report—not everything we wanted, but he really did a lot of hard



work and a lot of digging and took everybody's concerns seriously on both sides. Instead of taking that report and doing something with it, they take the KPMG report that says workers are overcompensated, and they're going to go out and they're going to consult on these policies by sticking these policies up on the website—in which they did these draft policies and they gave them to us on the Labour Injured Worker Advisory Committee. One was on aggravation basis, one was on permanent impairments, and one was on work disruptions. When I had this guy who's amazing in policy and knows his policy and law inside out—he said anybody with a work disruption wouldn't get compensation anymore. I mean, the policies were restricting benefits. So we had lots to say about it and raised a fuss, and there were a number of people, heads of unions, up the street at 400 University having a talk with the Minister of Labour. That, in fact, had the board then sit down and agree—they had no credibility to consult on those issues, because they were letting KPMG drive the agenda of the Workers' Compensation Board, which was all to restrict benefits for injured workers. Meanwhile, they've got this report that says they've got a moral crisis on their hands, and they're not going to do anything with it; they are going to consult on how to restrict benefits for injured workers.

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So they agreed to set up another process similar to that of Harry Arthurs on the funding review. They've hired Jim Thomas, who is a former Deputy Minister of Labour and who was first vice-chair of the Workers' Compensation Appeals Tribunal in 1985. He's got some understanding and he's got some credibility. He has been writing a discussion paper, and then he is going to go out and consult with the stakeholders. He, like Professor Arthurs, has got some credibility, so it's going to be a transparent process. Then he's going to make recommendations to the board on how to develop policies on these issues, and then the board will develop draft policies and go out and consult on them. Will they look like the policies I have in my office that I'm told aren't being implemented by the higher levels of the Workers' Compensation Board?

However, all the reps that I know keep phoning me and saying, "Laurie, they're not allowing work disruptions." I had brought the Power Workers' Union in with me to see John Slinger a couple of weeks ago. We had about a dozen cases of people on work disruptions who were being denied benefits because they were applying the "phantom" policy. One worker was about to lose his house; he was a single parent about to lose his house. Within a couple of days they had a cheque cut for \$15,000 to correct the wrong.

I've got all kinds of cases, and they're telling me, "They shouldn't be happening. Bring them to me." So I've been bringing the cases down to senior management. But what about the 70% of workers that aren't covered by a union or don't know that, "Yes, bring the cases to Laurie Hardwick at the OFL, and she'll take them down to the top and get them fixed"? You talk to the front-line

workers; the advocates get told by the adjudicators on the phone, "I'm sorry I have to do this. My boss is telling me I have to do this."

**The Vice-Chair (Mr. Phil McNeely):** Your time has run out. We'll go to the official opposition. Mr. McDonell.

**Mr. Jim McDonell:** Thank you for appearing today.

You were quick to point out that 14 years ago, legislation came in that is to blame for all of this. But it's been 14 years, and there have been many years of a new government that had a chance to change this. The question comes down to—premiums are already about the average in the country. There needs to be some changes, no question, but it's a matter of being competitive. We're seeing our industry and good jobs leaving this province and going elsewhere because it's getting too expensive to operate here. This is just another input, and there are many inputs. There's electricity, property taxes that are just out of control, as I hear in the community.

How do you address this without driving more businesses—it's not going to help us any. If we end up losing another few thousand jobs over the next few months, all we've done is now pushed it up again, with less people to pay for it.

**Ms. Laurie Hardwick:** Well, one could argue that way, or the other could argue that the pie is so big, and workers actually help pay for the system. The pie is so big, and when I can't negotiate that into my paycheque because it's going to a payroll tax, as the employers like to call it, then I would say I'm paying for it too.

**Mr. Jim McDonell:** We're talking about now a huge—I mean, we talk about our unfunded liability on hydro. This is double this. This is a huge deficit: \$14 billion. It's got to end up being paid or at least stabilized, and we've seen that it's doubled over the last six years. There's got to be an answer—

**Ms. Laurie Hardwick:** And by expanding coverage—

**Mr. Jim McDonell:** It's not as easy as just raising premiums to get rid of it. I mean, if you're raising premiums and raising benefits, you're not doing anything.

**Mr. Al Bieska:** It's certainly an issue we can't ignore, because we don't want to lose jobs any more than anybody else wants to lose jobs. But I think some of the recommendations that we make in our paper, such as universal coverage—when you do a comparison of average premium rates in Ontario compared to other jurisdictions, you can't fail to recognize that the other jurisdictions, almost all of them, have universal coverage. Universal coverage will bring down the average premium rates. That's one issue.

The other issue is, there needs to be more investment in health and safety and return-to-work. That's the way to reduce compensation payments to workers, not by restricting entitlements. So those are the two recommendations that we have on how to make the system more fundable.



**Mr. Jim McDonell:** Just a quick follow-up: You talk about adding these people. When you add people, you add premiums, of course, but you also add liabilities, and I think we heard this morning that by adding more people, it's a neutral process because we're also adding the benefits as well. So it sounds like you get X number of people to help share the fees, but then they're also going to receive the benefits, which are also costly.

**Mr. Al Bieska:** Right. But if you take a look at the statistics in other jurisdictions that do have universal coverage and compare the non-covered industries in Ontario, number one, the facts will be that the premiums are very low; they're at the lower end of the rate for the ones that are currently not covered in Ontario. And if you take a look at the accident frequency and severity rates in other jurisdictions that cover our non-covered industries, I don't think that you could draw the comparison that by covering more people, it's going to be a significant escalation in claims costs.

**Mr. Jim McDonell:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you very much, Mr. Chair. Moments ago, a comment was made that said, essentially, to sum up, that we shouldn't be playing politics with workplace safety and insurance. I have to wonder—and I'm curious about your opinion—with various appointments, like Pat Dillon of the Working Families Coalition etc., do you feel the WSIB has become political?

**Ms. Laurie Hardwick:** Pat Dillon had been on the compensation board of directors for a long time before Working Families.

**Ms. Lisa M. Thompson:** Do you feel it's become political?

**Ms. Laurie Hardwick:** Not really, no.

**The Vice-Chair (Mr. Phil McNeely):** Ms. McKenna.

**Mrs. Jane McKenna:** Laurie, it sounds like you need to have your job re-evaluated, because you sound so stressed out there with all the things that are coming to you. So you need a re-evaluation of your job description, first of all.

**Ms. Laurie Hardwick:** Could we?

**Mrs. Jane McKenna:** It sounds like it to me.

See, I sit here and I think to myself, we can't continue to constantly Band-Aid everything, right? This morning, we heard that the average assessment rate is \$2.40, so my question is, what does the average rate have to be to pay off the unfunded liability? If you're going to pay it off in 15 years, and we look at \$1 billion a year—right now, the operations, we're bringing in \$3 billion; we need \$4 billion, so we need an increase of 25%. That's the only question I have here today, because at the end, sure, we might be able to save \$50 million here or there, but we still have to come up with another \$950 million to fix the problem.

I hear everything that's being said here today, but somehow we get stuck on so many other things outside the silos, when we actually only have one problem to

address today. When Dave Marshall comes back this afternoon, my number one question is: If you don't have the answer for that, you're not doing your job.

So I really was very enthusiastic with your passion here today, because you can tell you're very enthusiastic. I did feel your frustration, because when you don't have the proper job description, it sounds like everything's being dumped on you. Sadly, we do get—

**Ms. Laurie Hardwick:** No.

**Mrs. Jane McKenna:** Well, it did sound—but, anyway, at the end of the day, my number one question to you is, do you think that your system is working? Do you have any shortcomings in your system, and if you do, what are those that you could change?

**Ms. Laurie Hardwick:** Well, first of all, I think there's more than one problem here today. When you get our submission and see all the other areas that we have concern with in the compensation system, it's not just about the funding. But the question of how to properly fund the system—the gentleman who's presenting after us has recommendations that I think are very workable, and I defer the answer to that question to him because he's got good recommendations in his paper.

Our position has been that it does not need to be fully funded, that we need to have a pay-as-you-go system, similar to that of the Canada pension plan. That's the position we put forward. That's not the position that Professor Arthurs put forward, but I think the position he put forward we could live with, and I'll leave him to explain the details of that and you can ask him that question.

**Mrs. Jane McKenna:** Yes, that's wonderful, because when you have a business plan, you look at what you've got coming in, and you've got to be able to figure that out in the end. You can't just figure numbers up in the air, that that would be a good idea, unless you have an actual business plan.

**The Vice-Chair (Mr. Phil McNeely):** Any other questions? Mr. McDonell.

**Mr. Jim McDonell:** You talk about needing to change the system. Essentially, this is insurance, and many of the groups, or certainly anybody in their own business, has to purchase their own insurance. The income insurance is optional. Do you see this as being a possibility that the employee pay some of these benefits? Because we are really looking at a replacement for compensation for wages down the road that anybody else would have to pay for.

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**Ms. Laurie Hardwick:** Well, we would disagree with you calling it "insurance." Legislation got changed; it took "worker" out and it took "compensation" out. I still call it the workers' compensation system and always will. It was the historic trade-off in 1914. We gave up our right to sue for just compensation. So no, I don't think workers should have to pay. I think we're already paying—and workers are paying with their lives.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson?



**Ms. Lisa M. Thompson:** Earlier you mentioned that 70% of the employees in Ontario are currently covered by WSIB. Clearly—

**Ms. Laurie Hardwick:** Thirty-five per cent aren't, according to the 2003 study.

**Ms. Lisa M. Thompson:** Okay. Thank you for that. We know that the unfunded liability is a burden that's really tough to carry. Do you think the WSIB has run its time, and do you see a new vision or a new board facilitating the workers' compensation that you referenced earlier?

**Ms. Laurie Hardwick:** No, I do not. I think we need to have a publicly administered compensation system in Ontario.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. The time is up. We'll go to the third party. Miss Taylor.

**Miss Monique Taylor:** Thank you for being here today and thank you for your passion and the hard work that you do on behalf of workers across this province, because if we didn't have that passion, then we would have a lot more troubles than we're already facing, which we know are more than enough.

My time is pretty much to hear your voice, because that's what I'm here to do. I would just like to be able to give you a couple of extra minutes to discuss anything else that you feel you really need to say and you haven't been able to get to the table yet. Do you have anything offhand?

**Mr. Al Bieska:** I'd like to add—thank you for the couple of extra minutes there. The issue I raised on the compensation of occupational disease victims also morphs into another issue that is on the horizon, and that is the compensation of survivors. The employer community who challenged, originally, that practice of continuing loss-of-earnings payments to victims whose diagnosis comes on after retirement is also now challenging survivor benefits under section 48, using the same theory that if the worker's diagnosis came on after retirement, then even the surviving spouse wouldn't be entitled to the periodic payments because there was no loss of earnings.

Again, I just want to reiterate that in the name of justice and fairness, understanding that the complication of occupational disease claims is a significant latency period between exposure and the onset of the actual disease. How can we not compensate somebody whose life is shortened, somebody whose quality of life is shortened, by a workplace exposure simply because of the wording of the present legislation? That's, again, why we recommend that there needs to be a legislative amendment to section 43 that would allow payment to the victims and survivors of occupational disease.

**Miss Monique Taylor:** Good point, and it's actually one close to my heart. My stepfather passed away before his occupational disease was recognized. My mom received a call I think two months after the fact, saying that he had been recognized as having this. She did get compensation, but he wasn't able to see it in his lifetime. Thank you for bringing that up.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Natyshak.

**Mr. Taras Natyshak:** Back to the experience rating issue: Other than the superficial data that we've seen reported on reduced amounts of claims, reduced and lost-time injuries, is there any empirical proof or evidence that the experience rating system actually works to reduce workplace accidents or injuries?

**Ms. Laurie Hardwick:** Actually, that's an interesting question. We asked the same question of the board a number of years ago when we first started having our experience rating working groups with them because we were trying to ask that question. They produced study after study. I've got that much paper in my office. They went through each of these studies with us, and at the end of the day, those studies didn't prove that experience rating worked.

**Mr. Taras Natyshak:** Because the employer would have to quantify the fact that, "Oh, we were always looking for that incentive to reduce our workplace injuries," when ultimately, they should be—it's the carrot-and-the-stick argument back over again.

**Mr. Al Bieska:** Could I just add something to that?

**Mr. Taras Natyshak:** Yes, certainly. Go ahead.

**Mr. Al Bieska:** I think it's fair to say that, philosophically, there's nothing wrong with the position of rewarding employers who do the right thing—who invest in health and safety and good return-to-work practices. However, the present system we have under experience rating, both under the new experimental experience rating program and CAD-7 for the construction industry, bases the performance of an employer on claims costs. That's where the error is, and that's where employers and their consultants are sometimes incited to do the wrong thing, which is to suppress claims, to talk workers out of filing and all the bad practices that we hear of, particularly in the anecdotal evidence.

Again, philosophically, there's nothing wrong with rewarding employers who truly invest in health and safety and return-to-work, but the system has to change drastically so it's not based just on claims costs.

**Ms. Laurie Hardwick:** Just on that, employer participation at the appeals level, at the compensation board, is usually within the three-year experience rating window. Once it's outside the three-year window, it doesn't affect the employer's claims costs anymore. So at the tribunal, I think there's only 30% employer participation in worker appeals because it doesn't affect their experience rating rebates anymore. But at the compensation board, they're there about 80% of the time because it affects their experience rating rebates.

**Mr. Taras Natyshak:** I believe that the WSIB has made substantial effort—enough—in conjunction with the Ministry of Labour in promoting a safer workplace in Ontario. Do you think they're doing enough? Because the correlation has to be made.

**Ms. Laurie Hardwick:** No.

**Mr. Taras Natyshak:** If rates of workplace accidents are not going down, then that obviously is where the problem stems from.



**Ms. Laurie Hardwick:** Prior to Bill 99, we had a workplace health and safety agency. We had strong worker voice on that agency. We had much stronger health and safety training in the province of Ontario. The Workers' Compensation Board never had responsibility for health and safety. It got dumped on them in the first clause in the purpose clause, yet they had no training or background in doing health and safety. When Tony Dean did the consultation with the expert panel, the labour movement consistently said that health and safety had to come out of the board, and they've taken it out of the board and created the chief prevention officer.

Having said that, there's one thing that we want to ensure doesn't happen. We cannot take health and safety out of the compensation system at all. We have to consider health and safety and return-to-work. The other tool that the board has that is very important and that the board did have before they ever were responsible for prevention is that of the Workwell audit. The Workwell audit goes in and audits for health and safety. I've been told that employers are more afraid of Workwell auditors from the compensation board than they are of Ministry of Labour inspectors. They're an effective health and safety tool.

From an insurance point of view, it can also be argued that if a company is looking to buy insurance, or you're looking to buy insurance for your car, they look at your driving record. They look at how many accidents you've been in; they look at how many tickets you've had. They don't just say, "Oh, you look nice. I'm going to give you your car insurance for \$35 a year and I'm going to charge you \$125 a year." It's based on what your record is. Workwell audits have an impact on rate-setting and what employers should be paying into the system.

**Mr. Joel Schwartz:** I just wanted to add a bit to Ms. Hardwick's answer. I would caution about relying too heavily on the numbers of accidents that are reported. We believe there's an epidemic of unreported injuries out there and unreported accidents. A significant part of that is because of the incentives employers have not to report injuries.

**Mr. Taras Natyshak:** Quite perverse.

**Mr. Joel Schwartz:** Indeed.

**Mr. Taras Natyshak:** Where are we at? Two more minutes.

There has been inference to what the social costs are when this system fails. Do you have any data on that? Can you tell us what people can expect if the compensation system fails them? Where do the majority of folks end up?

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**Mr. Al Bieska:** Well, clearly, if the compensation system fails, then victims of occupational injury and disease have to rely on publicly funded social assistance or health care. So it's the taxpayers of this province that end up picking up the cost of these injuries or diseases that really ought to be funded by the employers since Ms. Hardwick said that that was the historic trade-off in 1914. We as workers gave away the right to sue, which was a very

significant right. In exchange, we were supposed to get a fair and just compensation system that was non-adversarial, that provided compensation that allowed somebody to put food on the table even though they were injured through the course of their employment. Clearly, the burden will fall on taxpayers whenever the compensation system fails.

**Mr. Taras Natyshak:** It seems that there are some pressures currently that have been brought back up, ideas of old about getting rid of this system entirely and going to sort of a more legal system. Any idea on other jurisdictions that rely solely on legal wrangling?

**Mr. Al Bieska:** There is no jurisdiction in Canada that does that—

**Mr. Taras Natyshak:** In the United States possibly, if those are other jurisdictions?

**Mr. Al Bieska:** The United States is more of a blended system of litigation and statutory benefit entitlement. In some of the states, there's actually a cap on how much compensation a worker can receive for their occupational injury or disease, and then anything over the cap they can litigate. The statutory bar to litigation is far less in the States than it is in Canada. But in Canada, every jurisdiction has that statutory bar for litigation for recovery of damages.

**The Vice-Chair (Mr. Phil McNeely):** Time is up. Thank you to the Ontario Federation of Labour.

#### MR. HARRY ARTHURS

**The Vice-Chair (Mr. Phil McNeely):** We'll now have Professor Harry Arthurs come forward, please. Mr. Arthurs, you have 10 minutes to make your presentation, and for the purposes of Hansard state your name to start off.

**Mr. Harry Arthurs:** I hope members of the committee have received a summary of my report. I know they've heard about it from several people who have been here already.

Basically, what I would like to do is be as helpful as I can to the committee. Perhaps the best way to do that would be to put my 10 minutes in your hands. You can distribute it as you think appropriate, and I will be happy to respond to all questions because that might be the most helpful thing I can do over and above supplying you with the report.

Just one footnote to that: The full report is online, all of the research supporting it is online, and all submissions are online. If there are questions that come up which involve further detail, I'm sure you or your research staff will be able to find the answers if indeed they exist.

So really, Mr. McNeely, I'm at your disposal. I don't have a preliminary statement.

**The Vice-Chair (Mr. Phil McNeely):** That's fine. I don't think there are any objections with the committee. We'll start with the official opposition and Mr. McDonnell for questions.



**Mr. Jim McDonell:** Thank you for appearing today and for your report.

The new legislation lays out basically coming to a balanced budget over the next 15 years, but it doesn't talk about the deficit, which is right now \$14.5 billion. Is there any way of addressing that at the same time? I mean, 15 years is a long time just to get to a balanced budget.

**Mr. Harry Arthurs:** The unfunded liability can be managed, I think, with reasonable measures over, as I suggested, a period of 20 years. The government has suggested a period of 15 years. The numbers don't actually matter very much, but I offered in my report a model which I'm quite confident will result in the unfunded liability being paid down. Obviously, if we're looking at a 15-year period of amortization it gets paid down a little more quickly, 20 years a little more slowly, but it is doable. It's doable without a very dramatic change in the current premium rates paid by employers.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you very much for being here, Mr. Arthurs. When we're talking about unlimited funded liability, we heard in the deputation from the Ontario Federation of Labour that it really wasn't necessary to eliminate the liability. You were sitting here when they argued that. I'm curious as to your response. How do you feel about that, and how would you answer it?

**Mr. Harry Arthurs:** In my report I suggested that the one thing which really is urgent is to get past the tipping point. I don't believe that the labour side disagrees with that. I think everybody agrees that the system should be able to meet its obligations. Once you're past the tipping point, which is somewhere around 60% funding—if you like, I'll explain how we came to that number—the question is, what mix of policies do you want to achieve? Do you want to have space, for example, for the WSIB to invest in new procedures and equipment so that it can give better service to its customers? If so, you have to have a margin about the tipping point. Do you want the WSIB to be able to develop a significant investment portfolio so that the revenue from that portfolio will allow it to ratchet premium rates down because some of its revenue will be coming from other sources? Do you want the margin for additional benefits to be paid? All of those things contemplate higher and higher levels of funding. To me, the one absolute requirement is to get past the tipping point.

Now, a quick word about the tipping point: In order to determine what that tipping point was, my research team conducted what amounts to an experiment. Using actuarial methodology, they looked at events which had occurred in the board's recent history and which had adversely affected its funding, such as the downturn of 2008; such as, over a number of years, missing its target in terms of what it required to pay for new claims; such as shifts in the compensation of the labour force, which has gradually shrunk, for example; highly paid and there-

fore significant contributors like the manufacturing industry, as that shrinks. Even though there's a residue of claims from times past in manufacturing, it's not contributing its appropriate share anymore to pay those claims. They took a reasonable number of all of those contingencies and ran 1,000 scenarios a year of things which had actually happened and said, "What combination of those is likely to put the board in a position where, within a reasonable time frame, taking reasonable measures—that is to say, no dramatic hike in premium rates, no dramatic slashing of benefits, but reasonable measures within a reasonable time frame—would be necessary for the board to meet its obligations as they came due year by year?" The number they came up with is 60%, and I think it's a reasonable number. That's where I would focus the majority of the effort.

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Then, understand that if you starve the board of resources, there are a bunch of things it can't do. It can't lower premium rates; it can't add new benefits; it can't provide better service.

**Ms. Lisa M. Thompson:** In essence, you're saying that the federation of labour was wrong to suggest that there's no need to eliminate the unfunded liability. It needs to be addressed, as per your research.

**Mr. Harry Arthurs:** They put that same argument to me, and my report contains my response to it. I don't agree with that position, though they made some very interesting arguments based on analogies to the Canada pension plan. I looked at those arguments very, very carefully and decided that there were enough differences between CPP and WSIB that the same funding arrangements that prevailed there wouldn't work here.

**Ms. Lisa M. Thompson:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Ms. McKenna.

**Mrs. Jane McKenna:** Thank you so much for coming. I have a couple of questions. When you're saying 20 years and then in the government, the Ministry of Labour is saying 15 years, what impact will that have on employees, if any?

**Mr. Harry Arthurs:** On employee benefits?

**Mrs. Jane McKenna:** Yes.

**Mr. Harry Arthurs:** My analysis assumed that there would be no adverse effect on those benefits.

**Mrs. Jane McKenna:** For five years; okay. Then next, when you talk about the tipping point, do you add in the equation about the precarious position of small and medium businesses? I look at everything and I always look at things, and I absolutely hate Band-Aid effects. When you're looking at the big system the way it is right now—I mean, I realize that you're talking about the tipping point, but if you don't have any small or medium-sized businesses here and they're all gone, then what's the alternative going to be?

**Mr. Harry Arthurs:** I was very concerned about the effect of the system on all businesses, not just small and medium businesses, and consequently retained the Conference Board of Canada to look at the effect of rate changes on business. What they said, I think quite sens-



ibly, is that some businesses are much more sensitive than others to rate changes. Businesses with a very high labour content obviously are more sensitive to changes than those where the raw materials or other components of their costs are a much higher percentage. Of those that have labour costs, some have very low premiums, and you would hardly notice a fluctuation in rates. Others with very high premiums, you would certainly notice it.

But most of all, what they pointed out was that businesses vary in their ability to move. Obviously, to take the auto industry as a business that's very important, but not small or medium-sized, the auto industry has and will move production, and can do. So on that particular criterion, it is very sensitive to fluctuations in premiums. But the corner restaurant isn't going to serve its customers from Saskatchewan or Cambodia. They're there, and if there's a significant increase in their labour costs attributable to increased premiums, they will have to be passed through to the consumers.

But even there, on any given transaction, we're looking at pennies or fractions of pennies. We're not looking at significant deterrents.

**Mrs. Jane McKenna:** But that's still just a percentage. There are other things that add on top of that, right? If we spend \$1.8 million more an hour than we take in, and we're constantly looking that—you know, capital is mobile; Bay Street knows it. So if there's high debt, high interest, high capital, and then you've got a percentage on top of it—if we're supposed to be in the business of keeping small businesses here and getting the growth and giving them an opportunity to thrive, even if it's a small percentage, it's going to impact these businesses, and where are we going to be?

**Mr. Harry Arthurs:** Well, obviously, small business does present some real challenges, and we addressed them to this extent: It's very hard—I know because my wife is the proprietor of a small business—for a small business person to deal with all of the regulatory and tax issues, basically on the kitchen table, late at night, after working a full day at what the business is really about. So I think it's entirely reasonable to say, "Simplify. Make it possible for people to unburden themselves of red tape and give them simple, clear paperwork to do." I think that would be quite helpful. It has a very minor financial effect, but it's the sort of thing that I think small business people really need.

Now, in addition to that, let me speak both about small and large businesses. I concede that at any given moment, particular sectors of the economy may be confronting really serious economic problems. Whether it's WSIB rates that are going up, truck insurance that's going up, hydro rates, raw materials or whatever, all of those things represent a challenge for all business owners.

**Mrs. Jane McKenna:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. Time is up. We'll go to the third party and Mr. Natyshak.

**Mr. Taras Natyshak:** Thank you very much, Mr. Arthurs, for your report, and thank you, of course, for appearing before us.

The 60% tipping point that has been often mentioned today: How long to get to that tipping point if your report were to be implemented in short order?

**Mr. Harry Arthurs:** I reckon somewhere around five to six years. I think the governments reducing the period for retiring the UFL would bring that down to four to five years.

**Mr. Taras Natyshak:** In your report, on page 53, you state that "the WSIB cannot and should not make premium rates affordable by subverting the intention of the Legislature or denying injured workers their legal rights." Could you expand on that and explain that comment?

**Mr. Harry Arthurs:** Sure. I think what I had in mind—I'm trying to recall exactly where in the report that came—was the following: A number of employers concerned that paying down the UFL would result in an increase in premiums sought various ways to reduce costs. One of those ways was by reducing benefits or making benefits more difficult to access. I think I was particularly speaking to the latter; that is to say, if people are entitled to benefits, it's inappropriate to use administrative measures to restrict their access to those benefits.

**Mr. Taras Natyshak:** Do you believe that has been the case historically?

**Mr. Harry Arthurs:** I think there are certainly pressures and temptations to do that. I'm not speaking about the WSIB in particular, but any organization that handles a large flow of individual claims naturally tries to deal with its cost burdens by reducing that flow. I mean, it would be true of a private insurance company; it would be true of your bank or your telephone company. It's quite understandable that people do that, but in this particular case, people have legal rights to compensation, and I want to be sure those rights are respected.

**Mr. Taras Natyshak:** Do any of the provisions within your report prohibit the government from enacting any other taxation incentives to offset any increases in the rates for small, medium, and large businesses?

**Mr. Harry Arthurs:** Two quick points. One of them is that there are lots of ways governments can act to assist any sector, including the small business sector, without touching WSIB. There are various forms of subsidy for job training or transportation or hydro or other subsidies without necessarily coming out of the WSIB fund. That's my first point.

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My second point: Government, from the inception, has had the right to say to the WSIB or its predecessor, "You are not charging enough to meet your obligations. You must raise your rates in order to be solvent." They have never said that. Government has never had the right to say to the WSIB, "Restrain or lower your rates because that would assist the economy, placate a constituency of voters," or for any other reason. They have never had that power, but I am reliably informed they have nonetheless



said that to the WSIB on many occasions across governments of all stripes for the last hundred years.

**Mr. Taras Natyshak:** So they've never said, "Increase your rates," but have they said, "Decrease your rates"?

**Mr. Harry Arthurs:** They have said either "Don't raise it" or "Decrease it," and that's true of all three political parties. I suspect the United Farmers were guilty of it as well.

**Mr. Taras Natyshak:** If anyone in this room remembers that era, then we'll get deputations from them after.

**Mr. Harry Arthurs:** I don't remember it personally, either.

**Mr. Taras Natyshak:** I didn't want to get you to divulge your age.

In that light, in the rate-setting, your report contains a number of recommendations about minimizing government interference in the premium rate-settings. Why do you believe that it's so important to eliminate that government interference in the rate-setting process?

**Mr. Harry Arthurs:** I believe if one of the main purposes of the exercise is to keep the WSIB out of financial trouble, to keep it properly funded, then somebody has to be sitting down and making honest, professional judgements about how much money it needs without political interference. I think that's extremely difficult to do under the present arrangements. Consequently, I recommended a series of measures by which government would abstain from doing that, except in one single circumstance. If there was a real economic emergency and if the government genuinely felt that raising rates would exacerbate that emergency, they could publicly and openly say to the WSIB, "I'm sorry, even though professional analysis, actuarial analysis, says the rates should go up, we are instructing you, in the public interest, openly and according to predetermined criteria, not to raise the rates, or indeed to lower them." I think every government should have that reserve power, but it should be expressed in the legislation and exercised honestly, openly and not in dark corridors and by calls on cellphones.

**Mr. Taras Natyshak:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Miss Taylor.

**Miss Monique Taylor:** Thank you for being here, and I'd like to thank you again for the report that you did.

I'd like to talk about resources for injured worker advocates. You mentioned that "The WSIB might especially wish to explore the implications of the clear imbalance of resources that has developed as between employers and workers in the context of claims processing and adjudication ... and policy debates..." Could you please describe the imbalance you saw and the reasons why you think the WSIB should adjust this?

**Mr. Harry Arthurs:** Sure. There are two kinds of imbalance. First of all, where claims are challenged, in the context of claims adjudication, workers do not have access to either trained lawyers or paralegals for the most part. I do want to acknowledge the excellent work done by a small number of legal clinics representing workers

and the paralegals associated with them, but they simply don't have access to the same advocacy resources.

The second and in the long run, I think, even more important disparity lies in the policy debate. I had excellent representations from worker organizations, some of whom are in the room today, as I did, by the way, from business people and business organizations. But the great difference between them is that most business-side organizations can afford access to experts. Most worker-side organizations had no such access. Consequently, when we started to talk about things like what actuarial assumptions underlie the identification of the UFL or the measurement of the UFL, the workers were at a distinct disadvantage.

When I held an expert consultation, to which I invited all parties to send technical representatives, the worker side had a lot of difficulty in coming up with technical representation, particularly actuaries or economists who could handle the numbers in a sophisticated fashion. They were, in the end, able to do that, and they gave a good account of themselves, but it was a great struggle.

I don't think anyone gains if some of the stakeholders aren't able to participate on a full and equal basis with the other stakeholders in the important discussions that have to go into the making of public policy. I think it's in everyone's interest. It's in the employers' interest that the worker side should be well represented so that intelligent discussions can occur amongst the stakeholders and between them and policy-makers.

I would like to see somehow that that imbalance is remedied. Frankly, I think self-interested employer groups would agree with me.

**Miss Monique Taylor:** Thank you very much.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. Time is up. Now we'll go to the government side and Ms. Albanese.

**Mrs. Laura Albanese:** Thank you, Chair, and thank you, Professor Arthurs, for being here, for your presentation and for your excellent report, Funding Fairness, which, we were commenting with my colleagues, needs to be read at least twice to really be understood well and to grasp all the different intricacies that it contains.

I wanted to start by asking you—well, recently in May, the Minister of Labour announced some new regulations. Do you see those moving in the right direction?

**Mr. Harry Arthurs:** I'm sorry. Which new regulation are you referring to?

**Mrs. Laura Albanese:** It was on May 4. She announced that the province is establishing a new regulation that will require the board to reach the 60% funding sufficiency in 2017, then 80% in 2022, and 100% in 2027.

**Mr. Harry Arthurs:** It's not exactly what I would have recommended, but it's not very far off either.

I think myself that there are so many contingencies at work in determining the financial situation of the board: fluctuation of financial markets; the general state of the economy—and remember, premiums are related to aggregate payroll; changes in accident rates; overall



composition of the workforce. A whole lot of things are changing that it's difficult to foresee exactly how much will be needed year by year in order to move the WSIB towards its target. I don't think the minister disagrees with that.

However, saying that in year X you must reach 60% or 70% or 80% means that, in that year, you could be confronted with really a whopper of an increase, just because unfortunate circumstances have combined in that year. I don't think that's a good idea, because the pressure will then mount to say, "Let's interpret the numbers in such a way to avoid an unpalatable, very large rate increase."

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Instead of saying definitively that you must reach a certain amount by a certain year, I laid out a path which would, as I say, produce very similar results to those the minister has incorporated in the regulation. I laid out a path and said that around this path there are warning lights. As long as you're within a 10% spread of financial targets going up this path, if you miss it one year by a bit, don't worry about it. If you veer sharply off the path and transgress those warning lights, then stop, see what has happened, find out why you've missed the mark and figure out how you can take corrective action to get yourself back on track.

The minister and I—I hope it won't come to any difference in terms of what actually happens, but I think the minister is running a risk that she doesn't need to run.

**Mrs. Laura Albanese:** Could this risk take us back to—as you feared that it would take us back to political interference, the one that you were referring to earlier and that you have mentioned in your report has been responsible for a great part of the unfunded liability. I know that all parties were at fault for that, but is that the fear?

**Mr. Harry Arthurs:** As far as I know, the minister hasn't expressed herself on that point yet. But let me put the following proposition to you.

A minister who is reputed to have the power to fiddle with rates is going to be under constant pressure to do so. If I were the minister, I would put on this cloak of virtue and say, "We've given the WSIB a job to do. We've given them the tools to do it. We have overarching power to intervene if there's a genuine economic disaster. I'm sorry; much as I would like to help you, I can't help you. The WSIB is committed to a financial plan. It's committed to charging whatever it costs to deliver the statutorily mandated services, and I just can't intervene, because if I do intervene, experience teaches that instead of honestly representing the financial situation at the WSIB, I will get financial statements that are fudged, that don't tell me what's going on. That will be the way that they accommodate my request not to charge premiums that have to be charged."

That's why I call it a cloak of virtue. The minister is in a position to insist on honesty, obviously, compliance with the statute and so forth, but to get involved in the operational decision about what premiums to charge—I

think it's in the minister's own interest, and this would be true whoever the minister was, to say, "I'm sorry. This requires professional actuarial judgment as well-informed and independent as we can get it. It's out of my hands."

**Mrs. Laura Albanese:** Thank you for your insightful comments. I know that my colleague had some questions.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Jaczek.

**Ms. Helena Jaczek:** Thank you, Professor Arthurs, for all of your many recommendations. I'd like to explore a little bit more on your recommendations around the way employers are assigned to rate groups—

**Mr. Harry Arthurs:** With regard to?

**Ms. Helena Jaczek:** Rate groups. In other words, obviously you were critical of the experience rating rebates to employers exceeding those that were imposed in fines and so on. We heard a little bit about this from the Ontario Federation of Labour, that there's some sort of almost perverse incentive to be able to obtain an increased rebate. What mechanisms would you like to see in place to redress this?

**Mr. Harry Arthurs:** There are really two closely linked problems here.

The first has to do with experience rating. The statute presently says the board can have such a plan if it is designed to reduce accidents and encourage a return to work. Someone asked, during the previous presentation, whether experience rating actually does achieve the statutory purpose. There is a little bit of evidence that it does so to some extent. It's not very strong. There is also some evidence, quite compelling but anecdotal, that says that even if it does, it's incenting bad behaviour by employers who are suppressing claims.

I wish both sides of the argument could come forward with better evidence. One of the difficulties is that we are not presently set up to capture the facts that we need to verify either claim. My recommendation is that we conduct an experiment, going forward, and that experiment might take one sector of the economy and say, "We're going to set up a new incentive system and we're going to insert in the mechanisms that we use to evaluate that system on a day-by-day basis—we're going to set up a mechanism for capturing both positive and negative outcomes." At the moment, the only way we can assess these claims about abuse and about the advantages of experience rating is to look backwards 10 years, 15 years. I'm saying that if you set up a proper experiment, you can capture the facts, going forward, and be in a much better position to assess whether it's achieving a statutory purpose or just doing harm.

That said, I have enough evidence that harm is being done that I think the board should immediately take steps to deter people from engaging in illicit forms of claim suppression. I think—

**Ms. Helena Jaczek:** And how would you do that?

**Mr. Harry Arthurs:** There are a couple of ways to do it. First of all, you have to say to somebody, "It is your job to do it."

*Laughter.*



**Mr. Harry Arthurs:** I don't mean to be flip about that. At the moment, though, there is—I've forgotten; I think it's called a compliance branch. The place to detect bad behaviour is when claims are being heard. I don't think that claims adjudicators and other front-line personnel are adequately alerted to the need to identify suspicious or clearly wrongful behaviour. Even if they did, there is no means now of capturing reports from those front-line personnel to say, "Oh, we see a pattern emerging."

**Ms. Helena Jaczek:** Should that compliance function rest with WSIB or should it be in the Ministry of Labour?

**Mr. Harry Arthurs:** I think you need the WSIB because it controls the data, okay? Let me explain. I think the best chance of stopping it is through systemic analysis which identifies suspicious patterns of behaviour, which in turn trigger investigation and, if necessary, prosecution. I can see the ministry being in charge of the prosecution end, but I think, because the board controls the data, it's an absolutely essential player in any attempt to stop the abuse.

I did say in my report, and I've said on other occasions, it might well make sense for the ministry to have one-stop shopping, so that if it sends an inspector in to look at compliance with occupational health and safety and employment standards and other work-related issues, it should also have antennae quivering if it spots problems with claims suppression. I think that would make sense. But insofar as it's data-driven, based on things which computers can capture as a way of alerting inspectors, I think that has to stay with the WSIB.

**Ms. Helena Jaczek:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much, Professor Arthurs. Time is up.

**Mr. Harry Arthurs:** Thank you, sir.

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#### CANADIAN FEDERATION OF INDEPENDENT BUSINESS

**The Vice-Chair (Mr. Phil McNeely):** We will now go on to the next presentation, the Canadian Federation of Independent Business, if they would come forward and take their seats. You have 10 minutes to make your presentation. State your name for the purpose of Hansard, and we'll commence the questions after that with the third party.

**Mr. Satinder Chera:** Thank you, Mr. Chair. My name is Satinder Chera and I'm the vice-president of communications in Ontario at the CFIB. I'm joined today by my colleague Nicole Troster, who is the federation's policy analyst.

On behalf of CFIB's 43,000 small and mid-sized member businesses in Ontario, we thank this committee for giving us the opportunity to present the views of our members. As confidence among the province's small business owners continues to fall, as evidenced in our release earlier today, our message to this committee is

simple: Don't allow the WSIB to hike payroll taxes and further jeopardize jobs and the economy.

While the September 2010 announcement of the review of the WSIB was positive—the review of its finances—subsequent actions by Queen's Park and the WSIB quickly eroded its credibility, including hiking employer premiums just as the review was getting off the ground. The fact that expenditure management wasn't even a part of the review only added to the concerns and left employers feeling the process and outcome had been deliberately stacked against them, not to mention that it was offside of the government's own approach to tackling the provincial deficit.

During the last provincial election, each of your parties promised to reduce the tax burden on small businesses. Today you have the opportunity to demonstrate that commitment by standing with them against higher taxes on jobs.

I will use my remaining time to speak from the slide deck that is on the right side of your CFIB package, starting with slide 2.

For the past 41 years, we've proudly represented small and mid-sized companies across this country. We're now at 109,000 members across Canada. These are Canadian-owned, privately held small and mid-sized companies that are, frankly, on main streets across this province of ours. Our membership profile gives us a pretty diverse feedback from our membership, and it's something that we're incredibly proud of.

Slide 3: It still comes as a surprise to many, but the fact is that 94% of Ontario businesses employ less than 20 employees. The fact is that whatever changes come about from the WSIB funding review will disproportionately affect small companies. They're the ones that are creating the new jobs. It's not the big companies; they're in fact cutting back. They've been cutting back for a long time. It's the small companies that are creating the jobs, and if we want the economy to continue to grow, then we've got to give these folks a helping hand.

Slide 4 talks about how in Ontario half of our economy is now employed in small and mid-sized companies.

Slide 5: Weathering the recession. I think it's really important to keep in mind that during the recent recession there were many sacrifices that small business owners had to make. Whether it was working longer hours, taking on more debt, cancelling personal holidays, it took not only a financial toll on their business, but it took a personal toll on their families.

On Slide 6, you'll see the fact that even during that recession, small companies continued to grow. This is statistics from Stats Canada that demonstrates that in smaller companies, they continued to grow employment, whereas large companies were cutting back.

Slide 7 is the results of our recent business barometer. We put this out on a monthly basis. The results that came out this morning show that confidence amongst small business owners continues to decline in the province of Ontario. Ontario is now near the bottom of the pack in Canada in terms of business confidence levels.



Slide 8 talks about some of those specific pressures that are impacting business owners, not the least of which are taxes and regulations.

Slide 9 talks about the specific taxes that impact business growth. At the very top are payroll taxes that are levied on your payroll. WCB is an important concern for our members, and should be for the broader economy.

On slide 10, we have the results of our cross-country study that we did. We actually looked at all workers' compensation boards in Canada and we rated them based on their performance, as seen through the eyes of our members. Ontario is tied for last place with Quebec.

This is the first of this study—it's never been done in Canada—so in that respect, it's probably not going to be absolutely perfect, but frankly, it's the only one out there. We've met with the Ministry of Labour; we've met with the WSIB to present this data. We haven't really received any pushback in terms of the methodology that we've used.

Slide 11, with respect to the Arthurs report: As I said, we fundamentally saw it as a positive development when the review was announced. But the fact that rates were increased just as a review was getting off the ground and that there was no mention of expenditure management or review of expenses, frankly, from our members' standpoint, made it look very insincere, because at the end of the day, employers are on the hook for 100% of the costs of the WCB. That being the case, if the only thing you're looking at is funding, then they're dead in the water before the review even got off the ground, and that was the comment that we were getting from our members.

Slide 12 talks about how our members view the current Workplace Safety and Insurance Board when it comes to understanding their business needs. There is a huge disconnect right now. On the previous slide, you saw the fact that when it comes to customer service, Ontario's Workers' Compensation Board is at the bottom of the pack vis-à-vis the rest of the country. So even if you're trying to have a conversation, the reality is that if small business owners feel that they're not being respected by the board, then that's a completely different challenge.

Frankly, we're not opposed to having a conversation about the future of the board, the future of its finances. It's unacceptable that we have \$14.5 billion in unfunded liabilities, but frankly, there has to be a fair and balanced review, and that didn't happen.

Slide 13: I have to say it was quite puzzling from our standpoint that the government announced further indexation of benefits at a time when the board is already financially in trouble. Usually, when you're in a hole, you stop digging. That didn't happen. We know from 2007, 2008 and 2009 that the government's decisions to index benefits in those years added \$750 million to the unfunded liability. That was out of the auditor's report. It's not a far-fetched conclusion that there's a likelihood that rates are going to go up again, going forward. The fact that the review itself was viewed as insincere to begin with I think is a huge missed opportunity. The fact that

this review took almost 18 months to complete—again, there was ample time to provide that bridge to small business owners.

Slide 14: addressing the unfunded liability. Again, these are the views of our members. You'll see that in terms of raising costs and expanded coverage, it's near the bottom of the pack. They want to see some demonstration that this government-controlled agency is trying to live within its means. They haven't seen that.

Slide 15: Again, I have to say that it is gratifying to see all three parties around this committee agreeing that small business taxes are too high. Each of you made a commitment during the last provincial campaign to reduce that burden. My hope is that you'll demonstrate that by moving forward and standing with our members against higher WCB premiums.

The last point I'll make in terms of slide 16, because I'm probably short for time, is that one of our key recommendations here is that the Ministry of Labour be tasked, in consultation with the Ministry of Finance, to overturn any increases in employer premiums that actually claw back any relief that the government has provided to small business owners. The government has mentioned a number of cuts that they've made to small business taxes—absolutely, and you guys should be given credit for that. Let's just make sure that we don't miss those opportunities that claw that relief back. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. You're right on time. We'll go to the third party and Miss Taylor.

**Miss Monique Taylor:** Thank you for being here with us today. My question: I understand that small businesses are facing challenges. We all accept this; we know this. But if we're facing this underfunded liability at the same time, how do we address those challenges on a fair and balanced approach to make sure that it is fair across the board? Because if it's your family member who's hurt at work, you would hope that there was compensation for that person—it could be your wife or your husband—at the same time, because then your household is going to fall through the roof, because we know it needs to be two families, right? There has to be a balance, so what's the suggestion?

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**Mr. Satinder Chera:** A couple of points, Ms. Taylor.

One I would make is this: The last time that we had this sort of big review of the WSIB was back in the mid-1980s, and that's when the 30-year plan to reduce or eliminate the unfunded liability was developed. At the time, employers actually agreed to double-digit increases for three consecutive years in their premiums to get the system back on track. A lot of our members have long memories and they remember that they've seen this story before and nothing has really changed, so frankly, they're frustrated.

Secondly, governments continually talk about the fact that there has been tax relief provided, regulatory relief provided, and why aren't businesses growing? I think it's



important to sort of take a step back and think about the fact that—and this is governments of all political stripes—they give with one hand but they take with the other, and frankly, from our members' standpoint, the taking back is a lot bigger than the giving is.

The third point that I would make is, again, we were quite positive and quite welcoming of the government's review of the WSIB's finances. In fact, when we looked at the initial terms of references, it actually talked about looking at expenses as well. Then we looked at the terms of references a few months later and they were quite different from the ones that we had been briefed on initially. At the same time, our members, quite frankly, asked, if you are doing a review to figure out how to fix the system, and if you're going to jack up rates even before the review has gotten off the ground, then what exactly are you going to try to solve? Because it seems to us—again, to the guy who's working side by side with their employees—that the government has already made up its mind about what it wants to do and this review is simply window-dressing.

The final point that I would make to you is that, in terms of injured workers, we have been quite consistent on this. Absolutely, folks that are injured through the workplace should be compensated. In fact, I went back and forth on Twitter the other day with a gentleman in Sudbury who has been waiting for benefits for four years. I said to him, "That's completely unacceptable." We had a nice dialogue back and forth and we agreed to disagree on certain points, but at the end of the day, small business owners don't want to see the system gutted. What they're saying is, "Look, we'll come to the table, but let's have a fair and balanced conversation."

**Miss Monique Taylor:** Good. Thank you for that.

It brings me to another thing about the workforce coverage and Ontario being at the bottom of the list for that, with the average in Canada at 82% and Ontario coming in at 71%. What about that portion of businesses that are not dealing with WSIB at all?

**Mr. Satinder Chera:** I guess I would say on that, Ms. Taylor, that if the board has demonstrated to this date that they can't handle their current responsibilities, what makes anyone think that they're going to be able to handle even greater responsibilities? Expanded coverage—again, we have members in the construction sector that are facing increases thanks to Bill 119, which is going to be coming into effect on January 1. The rationale from the Ministry of Labour is that it's going to get at the underground economy. Well, implementing a new tax isn't going to get at the underground economy. There's a reason why you have the underground economy to begin with. "The day that tax goes into effect," our members are saying, "they're going to come and get me, because they already know where I am. But I've already got private coverage, so someone explain to me how it is that I'm going to be able to afford two different insurance products. I've already got private coverage; I need liability insurance for my business to run, which is 24/7. Now I'm being told that I've also got to get 9-to-5 coverage in

terms of my workplace. How am I going to be able to balance those two?" And we do have some members that have said it may not be possible for them to continue because costs may simply be too prohibitive.

On the issue of coverage, frankly, what we would say is that, again, let the WSIB demonstrate that it can deal with its current responsibilities, which they haven't been able to do, and if we are going to get into coverage issues and if we do want expanded coverage, then let's maybe start talking about private competition and let the WSIB compete against private sector companies for insurance products.

**Miss Monique Taylor:** My concern about that is the fact that these workplaces are not under the scope, so the Ministry of Labour is not checking into these systems because everything is done under the scope of the WSIB. So if you're not on the WSIB radar, then the Ministry of Labour has dropped them off the radar too. Yes, I agree that the WSIB is not doing a good enough job, but I don't think that that gives them the right to not be responsible for all workers of this province. So, there, I'll just leave my comments with that, and if you have anything to respond, that would be great. Thanks.

**Mr. Satinder Chera:** Here's what I would say on that. I think the first point—and it's a really important point—is the fact that Ontario has, I think, the lowest lost-time injury rates in the entire country in terms of workplace accidents. Even one is too many. We would recognize that. We'd be the first to admit that, but let's keep in mind that, generally speaking, Ontario workplaces are safe and they are getting safer. You look at the WSIB data, the Ministry of Labour data, and the numbers have been trending downward for many, many years.

The reason I point that out, Miss Taylor, is because our members work side by side with their employees. In a small, five-person operation, if you lose one of your employees, that's 25% of your workforce right there. You can't afford to have your workers put in harm's way, because at the end of the day it's going to mean a huge impact on your bottom line, which frankly is the family income for a lot of small business owners, right?

So what we would say is, let's keep things in perspective. Yes, one injury is way too many. The Ministry of Labour I think is now taking over prevention responsibilities in this province. We're keeping an open mind on that because, again, based on the evidence and the feedback that we received from our members, the WSIB did a pretty shoddy job of that. We know, for example, that the Office of the Employer Adviser, which is there to help smaller employers—because let's keep in mind, Professor Arthurs talked about the fact that a lot of worker associations don't have expertise.

I can tell you, for most of my members, it's either their husband, their wife, their son, their daughter that's working side by side with them. They don't have access to accountants. They don't have access to pricey consultants. They've got to rely on themselves in order to help support a safe workplace. If they're going to the WSIB, to which they're paying the premiums, and they're not



getting that level of service back, then there's something fundamentally wrong with that.

As I say, the Ministry of Labour is taking responsibility for prevention. We'll see where things go. But I just want to make that point. Again, it is not to undermine the point that you're trying to make. Look, we do have rotten apples out there, and the fact is that they need to be addressed, and our members would be the first to say, "The guy working down the street is not abiding by any of the rules and laws. I am. Why are they getting away with it? And yet I always have a ministry inspector trailing me around the local community."

**Miss Monique Taylor:** Thank you.

**Mr. Taras Natyshak:** Can I get a question in?

**The Vice-Chair (Mr. Phil McNeely):** Mr. Natyshak.

**Mr. Taras Natyshak:** I'd like to get just two quick questions in. If coverage was expanded to be universal in the province in all employer groups and that resulted in a decrease in rates for your members, do you think that's something that your membership would be in agreement with or would welcome?

**Mr. Satinder Chera:** Again, I would simply say that based on the fact that the system right now is in such dire straits, I'm not convinced at all that expanding it is actually going to make it even better, and frankly, I would also say, why should one employer have to subsidize others? Rather, what I would say is, let's have private competition if we want to go there.

**Mr. Taras Natyshak:** Is there any consensus from your members as to whether they would be willing to reopen themselves to litigation under a new type of format? Have you ever crunched the numbers on that and seen what that would look like to your membership?

**Mr. Satinder Chera:** I don't think you necessarily need to go down that road, frankly.

**Mr. Taras Natyshak:** But it would be the alternative to disband the current system—then we would have to give workers the opportunity to embark into some litigation.

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**Mr. Satinder Chera:** There's nothing wrong with the government setting the basic rules and saying that, "You know what? All the companies out there, you guys can compete for the business." I don't think there's anything wrong with that.

**Mr. Taras Natyshak:** Well, you can't have your cake and eat it too.

**Mr. Satinder Chera:** Why do we have to have one provider? Why can't we have more than one provider providing service? Another company may be able to offer it at a cheaper rate.

**Mr. Taras Natyshak:** Then workers should be able to embark in massive litigation against any businesses that are found in contravention.

**Mr. Satinder Chera:** But they would still receive basic benefits and it would still be compensated. Just because they're going to get compensation from insurance company ABC as opposed to the Workplace Safety and

Insurance Board—sorry, I don't understand why that would be a problem.

**The Vice-Chair (Mr. Phil McNeely):** We have to end it up there. We're over time.

I'll now go to the government and Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Hi, Satinder. It's nice to see you.

**Mr. Satinder Chera:** It's good to see you, Donna.

**Mrs. Donna H. Cansfield:** You know, it's interesting, as I sit and I listen—just before I do that, I want to make a comment. I was curious, when you did your analysis with PEI—were they outsourced?

**Mr. Satinder Chera:** Um—

**Mrs. Donna H. Cansfield:** That's all right. You can find out later and let me know. And thank you, because at the end, you did clear up that in fact there have been a number of initiatives to help small businesses: the input tax; retail tax reduced; corporate taxes reduced etc.

**Mr. Satinder Chera:** Absolutely.

**Mrs. Donna H. Cansfield:** When I looked at your page 5 and it showed everybody having all of their challenges, I thought, "Welcome to my world," and a whole lot of other folks who are in the same situation.

Satinder, the thing that I'm struggling with here is that, not just today but in the future, we will have a need for a far stronger workforce than we even have today, and our numbers are going down significantly. Then, as you know, there are some challenges around the issue of immigration at the federal level. So it would seem to me absolutely paramount to be able to sit down together on this issue—and it is not just about the unfunded liability, but also about ensuring that your employer looks after their employee and that the employee has good responsibility and obligations to the employer, what I would call the art of the possible, to make this happen, so that we in fact move into the future in a way that supports this workforce that we are desperately going to be needing.

The OFL came up with a few ideas, and you have some in here. They're a little bit further apart, and yet you're so much together. You cannot have a small business without—unless you've got your four family members in there, most small businesses have a few other employees. If you want to have a loyal employee, you look after them, and you do it well, or else your employee's gone. As an employee, if you want to keep your job, you work together with your employer.

It's interesting today, as I go to more sessions, especially with maybe not so much small but medium-sized and larger businesses, they are recognizing more and more the need to work closely with their employees to produce a good working environment so that they will stay, so they will be loyal, so they are reasonably compensated, but recognizing they have other issues in their life.

We have a big problem here, and I'm not sort of getting a feeling that we're all in this together, just yet. It's interesting, when you come and you—I would have hoped for more solutions other than, "Just don't do this." Just don't do this usually doesn't work. You have to put



some options on the table, and I know you've got some. But I'm interested, as you must be doing some forecasting looking out into the business world, on how you think you—because there's an issue of fairness here. How do you think your businesses are going to be able to keep those employees if they don't find this common ground around this issue of workers' compensation?

Before I ask you to answer that, I just wanted to share with you, just so you'd know, this morning there was discussion around Bill 119, and the Workers' Compensation Board has actually had discussions with a number of folks and they have recognized that challenge around the insurance, and they've come to some conclusions to look at different cost structures. They will be announcing that—I think he said soon, didn't he? In the next few days. So you might want to give them a call and find out.

But I'm interested in how you think we can—I mean, you've been in this gig for a while. How are we going to move forward on this?

**Mr. Satinder Chera:** Well, let me say that I think the data is quite clear that small businesses are pulling their fair share and then some. They continue to create most of the new jobs in our economy. The surveying that we've done over 41 years—countless surveys around workplace arrangements where employers will give their employees time off for various reasons, the working arrangements that they have.

There's a lot that our members are already doing, Donna, and I would say the point that I made earlier, which is, look, our members realize that even if they lose one employee to a workplace injury, that could be quite disastrous for their business, not to mention, of course, the personal impact of it. Our members realize that, and they take their responsibilities very, very seriously.

I think, again, going back to the point that I started with, we started off very, very positive in terms of viewing the government's announcement on the review of the WSIB's finances. What we found troubling, though, Donna, is the fact that what we were shown initially was quite different than what ended up happening. The review gets off the ground, and the WSIB announces two years of increases. So, frankly, our members are thinking, "Okay, do they really want our opinion, or are they just stacking the deck against us?" Again, I can only tell you what I'm hearing from my members. I'm happy to convene a round table with you personally with these members, because they have some pretty strong opinions as well.

I will say that the government's recent decision to appoint Ms. Witmer as the chair of the WSIB, I think, is quite positive. I think that she brings a lot of experience to the table. I have actually personally met with Minister Jeffrey, and I communicated that to her. I've also made the commitment to Minister Jeffrey that we have a lot of recommendations in terms of how we can fix the WSIB which we will be communicating to her very, very shortly. In fact, I will copy you on that correspondence as well.

But I think as a starting point, again, everybody around this room recognizes that taxes on small businesses are too high. I mean, you've all made commitments to reduce the burden on small businesses. I guess from my standpoint, what I would say is, let's not lose the gains that we've already made.

As a starting point, why can't there at least be an analysis done such that if the WSIB is going to move to increase premiums, let's make sure that it's not counter-productive to what the government has done to try to make the economy better? That's a sure way of ensuring that you're going to keep your young people at home and that they are not going to go out west to Saskatchewan or Alberta.

**Mrs. Donna H. Cansfield:** Thank you. I appreciate that sort of lack of communication, and obviously there's something to improve there.

It's also interesting, and I guess it's been historical, that a premium is a tax, whereas I think of the premium more as being a benefit in many respects because you're helping to keep your employee, and in the event that something occurs, your employee is well served. Again, it's just how you approach that issue.

The other is that you've spoken, on page 14—I know how these things work. I mean, you question folks. But it's interesting for me that in all of this, I didn't see—and in fairness, I haven't read your whole book, so it may in fact be in there, Satinder—the whole issue around the best way to prevent an unfunded liability being to prevent the injury in the first place. So I didn't see what the things are that we could do, what the issues are that would help reduce the barriers. We had some of it this morning around aligning some of the red tape, but what are the things that we could do to reduce the impact of injury in the first place? How could we all work together to make that happen?

**Mr. Satinder Chera:** Good point. In fact, a couple of points.

One is that we have 80 district managers in this province that meet with about 2,000 businesses in their places of business each and every day. One of the things they carry with them is the Employment Standards Act poster, and they carry with them the WSIB posters as well, to demonstrate to members that if you don't have these in your workplace, the Ministry of Labour is going to come after you, but more importantly, here are some things that you can do to make your workplace safer. We've actually gone to the WSIB in the past and we've gone to the Ministry of Labour to ask for copies so that we can distribute them to our members.

**Mrs. Donna H. Cansfield:** Wonderful.

**Mr. Satinder Chera:** We also work with outside consultants to put fact sheets together about what a business can specifically do to make their workplaces safer. As an organization, we are doing that, Donna.

With respect to the specific health and safety associations out there, I have to tell you, I am keeping an open mind about the fact that the Ministry of Labour now oversees prevention, because the feedback that we were



getting from our members, and part of it is reflected in this report that we did, is that the services that they were receiving from their health and safety associations were not that great. In fact, we worked with one health and safety association for a year, and the best they could come up with is a calculator to estimate how much it's going to cost a business if they lose one employee to an injury. Well, businesses already know that. They intuitively get it.

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What about some specific tips? "If you are in X business, here are some specific things that you need to do." You know, we could never get that, Donna. And the fact is, you and I have known each other almost nine years now, and during that time, I don't know how many health and safety associations I've met with. I will send you those presentations to demonstrate the fact that we're not johnny-come-latelies on this issue at all. The fact is, we have raised, countless times, here's what we're hearing from our members, here's the kind of support they need—the fact that they even need business coaching, because they're running their business during the day, but it's only in the evenings and the weekends that they ever get around to figuring out all the rules and regulations that they have to comply with. Are there some online tips and tools that can be implemented?

**The Vice-Chair (Mr. Phil McNeely):** If you could wrap up in 20 seconds.

**Mr. Satinder Chera:** Twenty seconds? We've also done health and safety studies at CFIB, countless numbers of them, and they've all been sent to governments across this country, including yours, over the past couple of years.

**Mrs. Donna H. Cansfield:** So there is, if I may, an implementation team that's come together from WSIB, the Ministry of Labour, everyone together. You must get that material to them, because that's exactly where the rubber is going to hit the road in how we can begin greater prevention than there currently is.

**Mr. Satinder Chera:** I don't disagree with you. Good to see you.

**Mrs. Donna H. Cansfield:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** We'll go to the government now and Mr. McDonell—the official opposition.

**Ms. Lisa M. Thompson:** I like the sound of that.

*Interjections.*

**Interjection:** Looking into the future?

**Mr. Jim McDonell:** Yes.

It's interesting to hear you say that through the last election, everybody wooed small business as being the saviour, but when you get here, of course, everybody is looking at how we can get more, you might say, employee tax out of you. We've also heard that the answer is to extend it across 100% of the base, because the base is paying less fees. But of course, if you look at these industries, or these small businesses, where most of them are less than four employees, their risk is less. So if you bring them in, their rates are supposed to be based on

their risk and if you look through their charts on how the companies work. So really, unless you're going to penalize them by charging them much more than the risk, you're not going to fix the system; you're just going to run it poorly, and with more employees, and on that basis actually drive up your rates. Any comment on that or how you see that?

**Mr. Satinder Chera:** Again, I would start with the point that our members take their responsibilities very, very seriously. They work side by side with their employees, whether it's family members or friends of friends. Losing one employee not only is a financial hit on the business, but the personal side of it is massive. So they take their responsibilities very, very seriously.

I'll come back to the point that I made before. We were quite supportive of the government's decision to appoint the Harry Arthurs review, but there were some early decisions that were taken that we couldn't quite figure out why they had happened. At the end of the day, the guy and the gal that are trying to meet payroll, they were looking at what was happening around them, and they frankly felt that the decks were being stacked against them. The possibility of rates going up in the future—whether they go up or they don't go up, I think the point is that our members would like to have a fair and balanced conversation and not one that is all one-sided about funding, because if it's just about funding, they're the only ones that pay into the system right now, so you're probably going to get more out of them.

In terms of other ways of looking at the system—and again, Donna made the point earlier in terms of specific recommendations—the Chrétien government in the mid-1990s, when confronted with the whole issue around CPP tanking, made a number of very difficult choices. One was to increase rates, but the other thing they also looked at was taking the investment side of the board and giving it to outsiders and basically putting it in professional hands, such that the system would incur positive returns going forward. That system has actually done quite well for itself. One of the recommendations that we made to the WSIB is, why don't we look at the investment side of things as well? So yes, there is the expenditure side and we do think that should be looked at, but it doesn't all have to come out of the pockets of a small business owner.

On expanding the rate base, again, look at the way the system is right now. If they can't handle the responsibilities with the current challenge—not to say they won't in the future; we'll wait to see—how are they going to handle it with an even greater base out there?

**Mr. Jim McDonell:** Just to follow up, do you see them well looked after through the private sector in this case, through their insurance? Are there any issues that you've come across?

**Mr. Satinder Chera:** I can only speak to our members that are now facing Bill 119 in January. Again, the one thing that they say is, "Look, in terms of the underground economy, government already knows where I am. I already abide by the rules, and so if they're trying



to get at the underground economy, the only thing they're going to end up doing is putting me out of business."

The folks that are in the underground economy aren't going to magically appear because there's a new tax in place. Our members would say, "Why aren't we going after those bad apples, the folks that aren't abiding by the rules?" Again, it all gets back to, let's have a fair and balanced conversation around this stuff and not let it be just one piece of the puzzle, which is just the funding side. That's where I think most of our frustration and concerns have been on this file to date.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Throughout our dialogue this afternoon, you've referenced the fact that all parties have made promises to reduce taxes on small business; and rightfully so, you're holding our toes to the fire, so to speak. I feel very proud of the fact that our leader last week introduced our position, our white paper, Paths to Prosperity, with respect to labour. Have you had a chance to look at that? And what are the benefits that you recognized within our position that we've established to date?

**Mr. Satinder Chera:** I haven't gone through the entire document, Ms. Thompson. I understand that there are specific references to workers' compensation and that. I haven't done so to this point, but we will provide our feedback in due course.

I would, however, say that—and I thought this was where you were going to go—we have sent an open letter to all three party leaders.

**Ms. Lisa M. Thompson:** Yes.

**Mr. Satinder Chera:** To this date, we've only heard back from Mr. Hudak, pledging support for our members. My hope is that through these committee hearings that we can also lock up the support from the rest of the party leaders as well, because again, I don't think this is a partisan issue. Frankly, I think all parties support small businesses. The government has taken a number of steps to support small businesses, as have the official opposition, as have the NDP as well. We just want to make sure that we maintain that momentum. Again, if we can do that through these committee hearings, then all the better.

**Ms. Lisa M. Thompson:** Okay. Very good. Just quickly, then: In that white paper, we've positioned the fact that we would immediately repeal Bill 119. What's your reaction to that?

**Mr. Satinder Chera:** Our members are opposed to Bill 119.

**Ms. Lisa M. Thompson:** Okay. We'd also take a look at ending the monopoly of the WSIB and opening up the marketplace in terms of workplace insurance. How do you feel about that?

**Mr. Satinder Chera:** I think it's a good discussion to have. Frankly, from our members, we do have data that shows that there is an ever-growing level of support for private competition. Obviously, we'd like to see the de-

tails of how that would potentially work, but we wouldn't close the door on that discussion.

**Ms. Lisa M. Thompson:** Very good. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Ms. McKenna.

**Mrs. Jane McKenna:** Thank you so much. It's a breath of fresh air listening to you talk today. I am just sitting here because when I read stuff like this, everything just comes to mind for myself. It reminds me of the Drummond report. It reminds me about if we had one plan and we implemented it everywhere, we'd be in such a better position, because if we can plop in anybody here, whether it's WSIB, teachers, doctors—it doesn't matter—everybody says the same thing: We're not listening to what the people have to say and how we can make changes.

I fully hear what you're saying, because people will say, as taxpayers, which we all are, "What do we have to show for what we have?"—which is nothing. People are okay to invest back into things when they have something to show for it. When they say, "We're looking at a premium," that's okay too if it's not a Band-Aid effect and you're looking at a business plan of where that's going to take you and how that's going to make it better. But you can't just throw words out like "premiums" if there isn't an actual bottom-line business plan to figure out what that's going to do to make things any better.

When I sit here and listen to what you have to say today very calmly, I can definitely hear the passion in your voice. It's just about everything that we've been doing for the last nine years and that we have to fix it and we have to make changes and there has to be a plan, period.

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To me, there is no plan. You can't just throw things out that are Band-Aid effects. I've said that numerous times today, because I'm always looking for a plan. At the end, if people are marked on their performance—if you had your own business, you would run it like a business. Everybody would have a performance level of where that is.

I have a question for you. Why do you think there are so many agencies that seem to be incapable of governing themselves, let alone improving the quality of life in Ontario? Why do you think that is?

**Mr. Satinder Chera:** First of all, let me say that there are some good people that work at any of these agencies. I'm going to speak specifically about the WSIB because that's the reason I'm here. There are some good people who work at the WSIB. I mean, I don't want to leave the impression that the whole organization—you know, throw the baby out with the bathwater. I think there are even some recommendations in Mr. Arthurs's report that should definitely be looked at.

I think the challenge, though, is that there needs to be a fair and balanced conversation, and I just don't think that our members feel that's happening with respect to the WSIB. Again, they were very supportive when this review got off the ground. It's something that they had called for. We felt that things were going to be moving in a certain direction; then we were told that it wasn't going



to be moving in that direction. Frankly, at the end of the day, what we're left with now is talk about higher premiums coming down the road. The members are calling me, saying, "We could have told you this two years ago when the review was announced, so why is this a surprise to anybody?"

When you look at that bridge in terms of that credibility divide between government agencies, particularly the WSIB, and our members, we should be building that bridge closer. Frankly, it's getting farther apart. The fact that the WSIB in Ontario, of all workers' compensation boards, is the lowest in terms of customer service—if any one of us walked into a business and was given crappy service, at least we could vote with our feet, walk out the door and go to another business, or take our business elsewhere. In this instance, our members have no choice. They've got to go back to—

**The Vice-Chair (Mr. Phil McNeely):** Time has run out. If you would just wrap up.

**Mr. Satinder Chera:** That's the last point I'll make, Mr. Chair.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, and thanks to the Canadian Federation of Independent Business for being here today.

#### CANADIAN UNION OF PUBLIC EMPLOYEES

**The Vice-Chair (Mr. Phil McNeely):** Our next presentation will be the Canadian Union of Public Employees, Fred Hahn and Harry Goslin. If you'd come forward, please. You have 10 minutes to make your presentation. If you would state your name when you start for the purposes of Hansard.

**Mr. Fred Hahn:** Certainly. My name is Fred Hahn. I'm the president of CUPE Ontario. We are a fairly large union in every community, city, town and township all across Ontario, with 230,000 members. We also have the distinct privilege of representing workers who work at the WSIB, so I'm joined today by Harry Goslin, the president of the local union there. He will be speaking to you about those issues.

Particularly, I think it's important for you to hear the voices of the workers in that system while you're engaged in the work that you are doing, but I wanted to take a minute to just—I'm not going to read to you this submission that you have before you, but I will try to encapsulate some of the issues that we have tried to point out in the big picture.

We were just hearing a little bit about the WSIB. There's a great amount of concern by some quarters these days, particularly about issues of funding and liability. From our perspective, there have been, in fact, many road maps and many plans from many quarters that say very similar things, things like, "We should be fully expanding coverage to all workplaces." When there are recommendations like this over and over again, when it's difficult to explain to 70% of the employers out there why they should be paying when 30% aren't, when the

workplaces are actually changing, and when this kind of coverage is actually cheaper, more effective and more beneficial than any private coverage could ever be because there is no profit involved, then it makes it difficult to explain why we aren't talking in a much more focused way about expanding coverage fully to every worker.

Of course, we really feel strongly that you need to, as a committee studying this, think about the appeals system, making sure that it is meaningful and that there is real access to that system. There are many issues around cuts to these kinds of services and staff morale, which Harry will speak to in much more detail.

We of course cover the issue of funding for injured workers and, in particular, indexing of pensions and benefits for workers. It is unacceptable that we have a system—if there are complaints about this system, I would say that one of the big ones is that we have a system that is supposed to be a public system that all parties in our collective history in Ontario created and supported, but now it leaves people in poverty, and that is a shame, something about which we should all be concerned.

There has been a massive trend to outsourcing and to automation in the board, and studies have demonstrated time and again—not just in this jurisdiction but in others—that in this kind of system when we outsource work and when we focus too much on automation, it actually costs more money and brings fewer benefits, so those things should obviously be something about which you're concerning yourselves.

We believe the WSIB has a very positive role to play in prevention, and there are, since Bill 160, the issues around prevention have been moved from the board. We think that that was a mistake. Harry will speak much more about that.

We actually believe that, in terms of the funding review that Harry Arthurs did, there's an option for a more sustainable path, and that's the first option he presented for employers. If we expanded full coverage, we wouldn't have to adversely impact, particularly, small workplaces with higher premiums.

We think that major parts of this action plan that have been released around the WSIB need to be reconsidered, and you'll see, we spent a fair amount of time talking about the various pieces of that action plan and which ones we think are quite problematic.

We also are concerned, of course, with governance at the board. This is an institution that is very important to the working people of this province, and we think that the governance of that board needs to be much more independent. Part of the challenge that we have is that we have a system in which various levels of government—particularly the provincial government, various parties—have interfered and changed laws in such a way that it becomes impossible. You can't tie people's hands behind their back and then ask them to swim. So what we need is real independence in governance in that board in such a way that workers' voices, in particular, from our perspec-



tive, are represented well to have a better system for all of us.

Those are a number of the issues that our submission deals with in much more detail. You can definitely take some time to read it; we'd appreciate it if you did. But I do now want you to hear from Harry Goslin, the president of Local 1750 of our union, who represents the workers at the Workplace Safety and Insurance Board.

**Mr. Harry Goslin:** Thank you, Mr. Hahn. As Fred has mentioned, I represent the unionized employees at the WSIB, of which there is about 3,600 employees. I'll go through some of the changes that are happening within the organization, but one of the biggest things, or one of the most pressing issues, I think, that's before this committee today is this absolute void when it comes to prevention.

As you all know, with Bill 160, the transfer of responsibility of prevention went from WSIB to the Ministry of Labour, effective April 1, 2012. So the effective date has come and gone, but the actual implementation of a new world of prevention has not yet happened. When I've met with the chief prevention officer, and in his own presentation to the WSIB today, his staff has indicated that he doesn't expect that he'll have a new prevention organization up and running until the end of 2013 or the beginning of 2014.

The WSIB, though, with the passing of the legislation began to wind down prevention services in the organization as it was no longer part of their mandate. They began to wind it down from a high of 177 staff to what will be down to 38 employees come this December. When I have talked to the chief prevention officer, I've explained to him that I think that he, the Ministry of Labour, the WSIB, the house of labour as a whole—all of us together have a moral obligation to address this prevention void.

The WSIB was to carry over \$206 million, as of April 1 this year, to the Ministry of Labour—which is, by the way, more than double the Ministry of Labour's previous budget. That money was earmarked to go to the Ministry of Labour to support prevention services, yet there is no prevention happening out of the Ministry of Labour. So I wonder what is happening with that \$206 million which is to come out of the WSIB. I think what really needs to happen in the interim is that, clearly, the Ministry of Labour is unable to put prevention at the forefront, as it committed that it would do, and I think what they need to do is enter into an agreement with the WSIB, at least on an interim basis, to provide prevention services until such time as the Ministry of Labour can get off the ground and running. In the meantime, every day that's wasted is another worker's life that's put at risk, and that's just unacceptable.

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The next piece that I would like to talk about is the coverage issue. The mandatory coverage was highlighted in the WSIB funding review even though it was outside of the scope. Even with Bill 119, which does improve coverage within the construction sector, we know that the province of Ontario continues to rank the lowest in Can-

ada, about 71%. And the problem is that it's the legislation. The legislation defines who is covered and who is not, and it has not been amended or addressed since the Meredith report of 1913. We think that the solution is that the government should act on the Brock Smith report, which was commissioned by the WSIB and the government of Ontario in October 2002. The report concluded that the WSIB should embrace mandatory coverage similar to other jurisdictions across Canada, thus spreading the risk and creating a level playing field for all employers, which is something you heard Professor Arthurs speak to earlier today.

The WSIB then contracted—based on this report, the WSIB also embraced the idea of 100% mandatory coverage, but to support that they went out and they hired Professor Douglas Hyatt, from the University of Toronto Rotman School of Business. He said that about 1.3 million uncovered workers would be brought into the WSIB system and with a premium income of around \$200 million, based on at that period of time in 2003.

A more recent report called the Financial Review and Opportunities for Reform in Service Delivery and Coverage in Ontario, dated October 2009, by economist Hugh Mackenzie, also recommended mandatory coverage. In both reports, what they say is that the act should be amended so that coverage is based on the exclusionary principle—replace the exclusionary principle with a presumptive inclusionary principle, so you're presumed to be covered unless otherwise demonstrated.

**The Vice-Chair (Mr. Phil McNeely):** Your time is up. If you could wrap up in the next 30 seconds.

**Mr. Harry Goslin:** Okay. I'd ask you to have a look at some of the appeals issues. The outsourcing, I think, is one of the key things that is happening. The number of staff—I think you've heard the chair and the president/CEO talk about 400 people having been laid off. The organization is actually undertaking a massive transformational change, which they think will happen in about a year-and-a-half's time, in which we'll outsource a significant or a massive amount of the organization into the hands of private companies, like Accenture, to automate the system, which will drastically change the historical compromise of having workers have a fair system to have the merits and justice of their case considered—and now to put it into the for-profit-driven organizations that are known to drive up costs in order to increase their profit, not to be there for the injured workers who need their assistance or for the employers that want a fair shake for the dollar that they put into the system.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. We'll go the government. Ms. Albanese.

**Mrs. Laura Albanese:** Thank you for your presentation, first of all. Maybe I'll give you a couple of minutes just to finish off what you were saying about the coverage and the appeals, so that you can finish those thoughts.

**Mr. Harry Goslin:** Well, the appeal system is due to be reviewed. We have been told that there is a backlog of about 4,500. As a local union, we entered into an agree-



ment with the WSIB to be able to put into place an emergency team to be able to address the backlog, because after all, the workers and the employers of Ontario deserve to get their decisions. That's been delayed now, for reasons unknown to me, until such time that they launch a new appeal system.

It's not the appeal system that's broken. What's broken is, I think, the front end, this "Let's go for the quantity versus the quality of decisions." I think if there was more time spent at the front end getting the quality of decisions, we would then not be so much deferring the cost of claims, which hit us at the back end when an appeal is heard.

**Mrs. Laura Albanese:** Thank you for that. Donna, did you want to—

**The Vice-Chair (Mr. Phil McNeely):** Ms. Cansfield.

**Mrs. Donna H. Cansfield:** First of all, thank you. I think I've been a bit of a pain around the issue of prevention, but it's high on my list of—it's preventable, right? So anything that's preventable—and you're right: I think our heads are not into how we prevent injury, whether it's with children or whether it's with a worker; our head is around how we fix them once they're injured. We will eventually have to get to the other issue.

I'm interested in the whole thing around the appeals. There are two issues. One is, you've got a backlog of appeals that need to be addressed, and there has to be a way to do that in a timely fashion, because you have both employers and employees waiting. I think that's an issue of fairness. So cut that off.

Then you've got the other appeal process, whatever it might look like going forward. One would hope that you are part of that discussion on what that process looks like going forward. Again, I can't speak for everyone in this room, but I can speak for myself and my constituency when if you can't navigate the system and the system is so overwhelming to you, you end up losing. I don't care if it's the long-term-care system or any system. Often, if you have the resources and you can use those resources and they help you—and often it's large businesses—it's one thing; we heard that this afternoon from Mr. Arthurs. It's another when you're the individual. So the appeal process and getting that right, I think, is particularly important for an issue of equity, equality, if you like, and fairness. I'm hoping that one doesn't get mired into the other.

Are you just separating them out or do you want to lump them all together?

**Mr. Harry Goslin:** Separating out the appeals system issue—I don't think you can separate one piece out from another. I think we are just kind of scratching the surface of the iceberg really and that the change that's happening in the organization is traumatic. What is really driving some of this change, and is it really to address the unfunded liability? Is it the consultants that have come in?

One of the consultants that have been brought in, which is Deloitte, their statement of work actually talks about being able to help the WSIB identify how they can better mitigate the cost of new claims coming into the

system and those that are going to become locked into the system. That, to me, is cutting costs on the backs of injured workers, which is something that the government had committed not to do.

I think you have to look at the whole picture, not just a piece here and a piece there. I think there needs to be a much more investigative study into what is happening at the organization, to the point where the brakes really ought to be put on before things go down a path where massive outsourcing happens and it's another Highway 407, with the outsourcing that happened there and the billions of dollars that were lost to the benefit of Ontarians. WSIB could be heading down the same path. Before that mistake happens again, let's put the brakes on and have a closer look at the whole picture.

**Mrs. Donna H. Cansfield:** Okay. I just wanted to share with you: I understand and it was shared with me that until the things are up and going, the WSIB is continuing with its prevention programs. I didn't want to mislead anybody to suggest they were stopped.

You know, like most things in this world, there's probably a happy balance somewhere, and that happy balance—that's just me—is going to be a little of this and some of that; it's never going to be one or the other. There probably always will be some opportunity to do some outsourcing, whether it's in data collection or—we learned that one of the things we shouldn't do was with the people. We heard that this morning from the WSIB.

If you were looking at what I call the art of the possible—because whether you like it or not, we have to deal with this unfunded liability. We have to deal with it. It's not going away. It's not going to disappear. So what is it we can do that's reasonable to both the employer and the employee?

**Mr. Fred Hahn:** Well, we could expand coverage so that all employees are in and so that all employers are paying. We could adjust fees for employers in a way that's fair and reasonable, but also recognizes that they are too low. We could have a horizon that doesn't make us so worried about paying unfunded liabilities that at the end of the day are not immediate. These are things that are calculated in a mechanism of accounting that ultimately makes us all worried about something which is not going to be on our doorstep next Tuesday.

1520

Now, that said, it's not something that we should ignore but it is also not something about which we should throw out the whole system. We think that there are comprehensive ways. In fact, many of them have been recommended, many of them by Mr. Arthurs himself, that could lead to a much more comprehensive system that is more whole and that respects injured workers and provides resources for them in a fair and reasonable way.

**Mrs. Donna H. Cansfield:** Okay, again, I don't think you're going to probably get everybody to agree with you on mandatory or compulsory registration for all employers. I don't know what that magic number is or if we've achieved it. I think that's open, probably, for some discussion somewhere.



I guess I put my bias on the table; I'm one of those people who likes to balance their budgets. So, I find this, paying—what do we pay, \$800 million a year in interest or something? It's something that could go to something better than to the banks. So, getting that unfunded liability down is probably just as critical as ensuring fairness for the workers.

Increasing isn't always the answer. I'm looking for, as I say, the art of the possible, the balances somewhere in here where you can come together with some consensus on how you can move forward. It can't be this and it can't be that; it must be somewhere where you can find some resolution.

**Mr. Fred Hahn:** But surely you understand that in an unfunded liability kind of situation, you're not paying interest on unfunded liability. I think you would also agree that part of the role of government is to provide leadership. It would be impossible to achieve consensus with everyone in Ontario, but what we're talking about here, what the committee is concerning itself with is, what is the best path forward? Not everyone will agree, but when we're looking at a sustainable system that actually values injured workers, treats employers fairly and funds itself appropriately, mandatory coverage just makes sense. It's not just us saying so; there's been many others.

**Mrs. Donna H. Cansfield:** Thank you. I've read both. I really do appreciate your presentation. I learned a lot. Thank you very much.

**The Vice-Chair (Mr. Phil McNeely):** We'll go to the official opposition. Mr. McDonell.

**Mr. Jim McDonell:** Yes, thank you for coming. I'm not quite sure how we don't pay interest on the unfunded liability, because we have a system today that we're not paying 50% of the cost, and it's only getting worse. Do we have to wait to the point where an external force like, we're getting downgrades on our provincial government's debt—I mean, it's a real problem. We've been very lucky that temporarily we've been seeing unusually low interest rates, lower than ever seen in history. All the experts are saying to get ready because these are going up. So the interest rates we pay today, whether they be \$800 million, whatever they are, they're only going to go up, one or two times, which means that the benefits we enjoy today, we have to somehow pay for them and pay for them soon before this becomes a real problem.

Anyway, saying that, I don't quite understand how we've got a system here that now has doubled its debt in the last five years, and the solution is—I guess you'd have to say, "Is it doing a good job at what it's doing?" And the solution is: "Let's get bigger and get rid of the group that is working," like the private side where employers and employees are getting what they need to get done. You're going to pull them into the system. Because I've heard from everybody today that the system is terrible, that everybody is not getting the benefits they deserve and that they need to improve their benefits. On the other side, we need to bring the people who aren't

enjoying these bad benefits into the group. You know, there's got to be an address to it.

**Mr. Harry Goslin:** I think there are three pieces to that. First, the KPMG report, Deloitte's own report, and some of the value-for-money audits that have been done over the past have all shown that employer premiums were reduced between 1996 and 2003, from \$3 to \$2.13 per \$100 of payroll. Had that not occurred, our unfunded liability would be at \$3.8 billion, versus what was reported to be \$11.5 billion but what we now know to be around \$14 billion. All of those changes happened under the Harris government, and that was the kind of government influence on WSIB—

**Mr. Jim McDonell:** And just if I could stop you there—

**Mr. Harry Goslin:** Let me finish—

**Mr. Jim McDonell:** —the problem we're talking about is in the last five years.

**Mr. Harry Goslin:** But this is what caused the unfunded liability.

**Mr. Jim McDonell:** I mean, the unfunded liability actually dropped. In the last five years—you know, we're already at the Canadian average. Are you suggesting we go much higher than the Canadian average? Because that penalizes businesses that can pick up and leave. The people paying these premiums, the big companies that are also complaining, are moving to Michigan or Wisconsin because they don't have to do the work here.

**Mr. Harry Goslin:** If I can finish, then, I think you have to look at the historical perspective, because what has generated the unfunded liability were the decisions that were made in the past, when the WSIB was told not to raise the assessment rates, but they would otherwise have been raised. That brings us to the unfunded liability that we now have today. It wasn't something that just happened overnight; it wasn't something that just happened in the last five years. But the effect of that, in that employers in Ontario were not actually paying the true cost of the claims, was that the WSIB became in the business of underwriting business in Ontario, to the tune of \$14 billion.

To try to bring the level playing field, I think what's unfair in the system is that you have about 71% of the employers in Ontario paying into the system, and out of that, 100% of the prevention in Ontario is funded. So you have 71% of the employers paying 100% of the prevention system in Ontario, at \$206 million. If you want to make a level playing field, you go with mandatory coverage. You have everybody paying their share and everybody covering the cost of prevention services. Then premiums, I think, can start to be more fairly adjusted.

Because the cost of private business in Ontario is underwritten to the tune of over \$14 billion, I think it's only fair now that we look at the cost or the burden that injured workers took since 1990, 1996, Bill 99 when that came in, and how that reduced benefits—took their net average earnings down from 90% down to 85%, took away their cost-of-living increases, took away retirement benefits. They paid their share, so now they're saying,



"It's only fair." Private business got \$14 billion; it's only fair that they get \$1.7 billion, as recommended in the Harry Arthurs report, for full indexing. That would be another piece of the puzzle.

**Mr. Jim McDonell:** Just to follow up on that, I guess you get back to—and I have to give some sympathy to this government. They could simply up the rates, but how can you adjust your rates so you're no longer competitive? I'm assuming that we take the average rates, which we are. That's our goal. If we raise them to be more uncompetitive—we've seen tens of thousands of jobs leave this province, and how many hundreds of thousands of manufacturing jobs? Where do we go? The answer is simply just adjust rates, but at the end of the day, if you lose the jobs, you're not fixing anything. That's one of the problems we're having.

Our accident rates are down, so you would expect to see rates drop. But we've lost so many jobs in this province, we can't afford these—we have to be competitive amongst our competitors.

**Mr. Fred Hahn:** We are on track and, thankfully, in a holding pattern. We're having one of the lowest corporate tax rates in the country. We have—

**Mr. Jim McDonell:** But you've got to balance that against our other costs. Hydro rates are the highest in—

**Mr. Fred Hahn:** And we also have services that create a good environment for business. We have a health care system, the likes of which they do not have in the States, and it provides a huge benefit to employers. We have infrastructure—highways, water, electricity—and things that actually attract business that have always attracted business.

If we're going to look at a big picture and we're going to talk about a big picture, what creates jobs and what keeps jobs, you cannot absolutely say that workers' compensation premiums that allow us to have a system, that ensure that we can have the system pay for itself—we're not advocating, by the way. Mr. Arthurs talked about a couple of different options. We're not advocating the steeper option for employers. We don't actually believe that people, particularly some of the small businesses, should be taking on higher premiums, and they wouldn't need to.

If we extended coverage to everyone, if we ensured that we were focused on prevention—we're in a situation where we have a government that passed a piece of legislation, said that it was moving prevention to a different organization, and none of that has happened. So how can we bring down premiums? How can we fund a system? How can we ensure—because at the end of the day, what this is supposed to be is making sure that all workers go home healthy and safe, and that no one ever has to use the system. We can't do that if we don't fund prevention properly, and we can't do it fairly if not all employers are equally paying to ensure that we're preventing injuries in workplaces across the province.

**Mr. Jim McDonell:** Just one last plan. I might make the argument that our infrastructure is not in as good a shape as the States. I mean, our road structure, our four-

lane highways, do not nearly come to match the transportation system of our neighbours.

1530

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson, you have about one minute.

**Ms. Lisa M. Thompson:** Quickly: Today, in 2012, what do you really think the problem is at WSIB? Do they have a revenue problem or a spending/expenditure problem?

**Mr. Fred Hahn:** We think they have, in many ways, a revenue problem. That's why we're saying what many other people are saying, which is that we should extend coverage to all workplaces and we should adjust premiums.

**Ms. Lisa M. Thompson:** So you're in favour of increasing premiums?

**Mr. Fred Hahn:** In a modest way that deals with this situation that was created because premiums were cut arbitrarily in a way that actually hurt the system.

**Ms. Lisa M. Thompson:** Okay, Thank you. Jane?

**Mrs. Jane McKenna:** Do we have the time?

**Ms. Lisa M. Thompson:** Yes, quickly.

**The Vice-Chair (Mr. Phil McNeely):** Fifteen seconds.

**Mrs. Jane McKenna:** Okay. Democracy and secret ballots should be pillars of a free society, so why shouldn't unions practise secret ballots in all certification votes in Ontario?

**Mr. Fred Hahn:** We're actually the most fundamentally democratic organizations in the province. I would invite you to hang out with me more and I could teach you more about that.

**Mrs. Jane McKenna:** That's a bit condescending, but okay.

**Mr. Fred Hahn:** No, I'm serious. I'm not even joking.

**Mrs. Jane McKenna:** No, I would love to.

**Mr. Fred Hahn:** Great.

**The Vice-Chair (Mr. Phil McNeely):** To the third party and Mr. Natyshak.

**Mr. Taras Natyshak:** Are you going to go?

**Miss Monique Taylor:** Thank you for being here with us today and for bringing us this material, because as I've been trying to brief through it quickly, I've definitely found some interesting points that haven't been raised here at the table today. The WSIB was here with us this morning, and they were talking about fairness to workers and fairness across the board, and trying to make things better when it came to the medical system and finding new doctors to do all these different jobs. Then I'm reading the "Examples of service cuts": multilingual services, employer liaison specialist, medical advisers, psychologists, ergonomic specialists. These are huge positions that are fundamentals within the WSIB and within workers getting what they need on the ground. Four hundred employees are being cut, and we're already at a backlog of 4,500 cases, and the list of appeals is even higher because of that.



So you bring a different perspective to this table than what we've been listening to all day, and I welcome that. I would just like you to comment on that briefness and the morale of your employees at the same time, please.

**Mr. Harry Goslin:** I've just recently done a tour around the province meeting with my membership in each of their offices. The morale has never been worse. I have worked with the organization for over 21 years. Time and time and time again, employees that have been there 20 to 30 years have consistently come forward and have told their union representatives that the morale has never been so bad.

With the cuts that are happening and the cuts that are being boldly predicted to come in the future, everybody is in a state of anxiety exhaustion where they think that every day they come into work it could be the day they are going to be tapped on the shoulder and told that they're affected, terminated, that the work is going to be outsourced. It is a pretty trying environment. It feels that there's a loss of ability to make the decisions.

When I first started in the organization, it used to be an organization where we were trained that we have to do what is right, we have to fulfill the legislative obligations, provide people what they need, not necessarily what they want, and if there was any benefit of the doubt, then it would go to the injured worker. Now today the mantra seems to be about cost, second-guessing every decision that's being made, and one of the mantras seems to be that nobody is unemployable. That's wrong. There are situations where people are unemployable.

The practice of deeming has come much more to the forefront now, where a lot more people are being cut off benefits without actually having any real, meaningful employment. You might be able to say that some workers or some people could be working in a convenience store—that was one of the examples I heard earlier today—but just how many of those convenience store jobs are there out there? If you're an employer who has an able-bodied person who's walking in the door to apply for a job and somebody maybe has a visible impairment, the job is tending not to go to the person with the impairment. That's the reality of it, and we're ignoring that by deeming.

**Miss Monique Taylor:** In the matter of the convenience store, the poor man gets lost in his own home, so imagine him in between the shelves of all those different cans.

Go ahead, brother.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Natyshak.

**Mr. Taras Natyshak:** Thank you, Fred and Harry, for presenting to the panel today. You are indeed a breath of fresh air. In fact, you are a ray of sunshine because when you walked in, it got so bright we actually had to close the drapes. So I want to thank you for shedding an enormous amount of light on this subject. Obviously, your presentation was well nuanced and pragmatic.

Harry, earlier when Mr. Marshall presented, my spidey senses went up when he talked about the outsourcing of data that's currently in the process at the

WSIB. It conjured up some serious concerns for me particularly. We've seen where data has been outsourced to private firms and that data has gone missing. We're not even talking sensitive data at this point; we're talking licence plates and addresses. In these cases, with claimants under the WSIB, we could be talking about sensitive medical information, family history, a whole host of issues. Do you share those same concerns and what potentially are the ramifications of losing that data or putting it out there into the private sector?

Secondly, you touched on the automation of the system, the expansion of automation. I'd like you to expand on that.

Also, thirdly: the vacuum in prevention that's happening right now between the shift of WSIB to the Ministry of Labour. We know what happened on December 24, 2009: Four workers fell off a scaffold. There was no enforcement; there was no prevention there. We know what just happened in Elliot Lake. We need more enforcement, more prevention than we ever have had in this province, and I wonder if you could comment on those three things.

**Mr. Harry Goslin:** Well, with the prevention first, I think, as I mentioned, right now there is an absolute and complete void, other than the few employees who are doing their absolute best, working very long hours, to try and hold the prevention system together. That's coming down to about 38 employees as the WSIB moves its way outside, away from that work, because it's not part of their mandate. I agree that that's a huge concern, and I wish that the Ministry of Labour would enter into an agreement with the WSIB to at least provide that service on an interim basis.

With the outsourcing of the data management, when we first learned of it, one of our major concerns was the risk of, obviously, breaches with a lack of actual direct control.

In addition to that, one of the things that we're very worried about is that the organization has already started to move in that direction. They're no longer an organization that is risk averse. They're prepared to take on risk and have some of that negative impact on employers and workers and their own employees. That's my view of it. By taking on that greater risk, while you're into that transition of moving the control for your data centre outside, should there be any kind of a breakdown in the system, there's no safety net in the interim.

When we had the power blackout in Ontario, all of our systems were in house and we were able to put our emergency measures into effect right away. But if all of our technology is outsourced and any kind of a downtime happens, we'll no longer be number one on the list. We won't be the biggest organization to a company like Accenture. We'll be number 10 or number 12 or number 13. "Yes, we'll get to you when we can." Meanwhile, you have injured workers who are waiting for their cheques. The risk is huge, the automation piece of it.

The WSIB is going to go out with procurements starting later this summer to try and source with com-



panies that can come in and help to auto-adjudicate much more than they currently are. They want to look at all of the benefit policies so that the policies can be shrunk down to take away the discretionary powers, take out the grey area so that it can now be automated by a system that will actually virtually be able to read the documents as they're faxed or scanned into the system and populate the data and remove the variable of being able to look at a case on its own merits and justice. That's the very nature of the things that are at risk in the system today.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. Time is up. Thank you for presenting on behalf of CUPE.

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### CANADIAN MANUFACTURERS AND EXPORTERS

**The Vice-Chair (Mr. Phil McNeely):** Our next presentation is the Canadian Manufacturers and Exporters, Mr. Ian Howcroft, vice-president. You have 10 minutes to make your presentation, and if you could start off with your name for the purposes of Hansard.

**Mr. Ian Howcroft:** Thank you very much, Chair and committee. We appreciate the opportunity to be here this afternoon. My name is Ian Howcroft and I am the vice-president of the Canadian Manufacturers and Exporters, Ontario division. With me is Maria Marchese. She's our director of policy, specializing in workers' compensation and health and safety, for CME Ontario.

We do appreciate the opportunity to provide input on these important deliberations regarding workplace safety and insurance and the WSIB. I'm going to say a few things about CME, a few things about manufacturing, and then move on to the substantive comments that we want to make regarding workers' compensation in Ontario.

CME is Canada's largest and leading trade association, the voice of manufacturers and global business in Canada. We represent more than 10,000 leading companies nationwide; approximately half of those are here in Ontario. More than 85% of our members are small and medium-sized enterprises.

CME, through its various initiatives, including the establishment of the Canadian Manufacturing Coalition, touches more than 100,000 companies from coast to coast engaged in manufacturing, global business and service-related industries. CME is also engaged in developing a manufacturing strategy for Ontario as we try and move forward to deal with retaining manufacturing and building manufacturing. Given the manufacturing sector's contributions to the economy of the province, this strategy is important to help us build on the strength that is manufacturing.

CME's membership network accounts for about 82% of the province's total manufacturing output and about 90% of our exports. It's also important to note that for every dollar invested in manufacturing, it generates over \$3.25 in total economic activity, the biggest multiplier of any sector.

I'd also like to make a few other points about manufacturing which show how important it is and the contribution it makes to our economy.

Notwithstanding the recession, we're still the largest sector. Output is about \$275 billion on an annual basis, over a quarter of a trillion dollars. There are approximately 750,000 to 800,000 workers who are directly employed in manufacturing, and there's about another one and a half million who have jobs that are indirectly dependent on manufacturing.

CME has focused on workers' compensation and occupational health and safety for a long period of time. We provided input almost 100 years ago during Justice Meredith's deliberations regarding the establishment of workers' compensation in Ontario and in Canada.

Occupational health and safety is also a long-standing priority for our members. We've taken a leadership role to promote health and safety, and have worked with our partners to provide demonstrable benefits and successes.

CME is also a founding member of the Ontario Business Coalition and is currently both its secretary and its secretariat. Consequently, we are well positioned to provide feedback and input and insight into workplace safety and insurance and into the system.

We would like to begin by stressing our support for the current direction of senior management at the WSIB under the leadership of Mr. Marshall. There's been significant progress with respect to both the financial crisis at the board and the stakeholder engagement. The WSIB has developed a very comprehensive policy framework model for policy review and development which we believe will have a significant improvement on the quality of policy development at the WSIB.

Employers are committed to improved health and safety in their workplaces, and in fact, a review of that period between 2001 and 2010 will support that the number of lost-time injuries has been reduced by approximately 45%. Improvements have been made, but a lot of work still must be done. The WSIB has implemented policy changes which require all workplace parties to co-operate in the early return to work of an injured worker.

Although we support the board's current direction, we wish to reiterate that it is our long-standing position that we feel a royal commission would be of benefit to the province. The royal commission should have a mandate to review all aspects of the workplace compensation system; it is needed to ensure that a publicly run system still continues to meet the needs of employers, employees and all stakeholders in the 21st century.

Since its inception in 1914, many changes have taken place, and it's incumbent on the government to ensure that the system serves the needs of all stakeholders. As well, the time has also come when one should consider whether the notion of a system, which is totally funded by one sector of the economy—employers—continues to be the answer for Ontario's workplace safety and insurance system. I think we should look at other options such as co-payments, deductibles and waiting periods, and we



think that should be examined within the context of a royal commission.

We think a royal commission on workplace safety and insurance would be a real benefit, as it wouldn't be just a piecemeal approach to reviewing the system. We participated in Professor Harry Arthurs's study on funding. However, that could only work within the terms of its reference specifics. It couldn't look at the whole context; it couldn't look at all the aspects pertaining to benefits.

Over the years, entitlement to benefits has become less and less related to the workplace. The role of pre-existing conditions in the entitlement duration discussion is an excellent example. We believe that it's time that apportionment of costs is given serious consideration within the workplace safety and insurance system. Employers should only be financially responsible for costs arising from an injury or disease which arose out of their workplace or their processes. Conditions and diseases not directly the result of the workplace should be excluded from coverage under the workplace compensation system, which is not generally the case with pre-existing injuries. Alternatively, those non-compensable costs should be charged back to the health care system, where they more appropriately belong.

We believe that it's time to conduct a comprehensive review of covered and non-covered industries. From a coverage perspective, industry has undergone many changes since 1914. Again, this review will only be meaningful if it is conducted within the realm of a royal commission which examines the entire system.

As outlined in our submission to the funding review, we believe that from a governance perspective, successful financial operation of the Ontario workers' compensation system first requires improved adherence to the principles of sound governance. This means that the interference by the government for political purposes must cease. The practice of granting retroactive benefit enhancements to existing claimants, without funding the costs, cannot continue—the system cannot support that. This practice has created a huge intergenerational transfer of cost and is a major source of the current funding problem.

CME continues to support the existence of the second injury enhancement fund in a reasonable framework. We support the ongoing existence of fair and equitable SIEF relief for Ontario employers who must operate within the current workplace safety and insurance system.

We also are of the view that the workplace compensation system is an insurance program. As such, it should adhere to insurance principles, one of which is based on cost-experience rating and the necessity of this technical insurance feature for adjusting the pricing of employer premiums in the employee benefit group insurance field.

We support a review of the existing cost-based program but insist that the concept of experience rating be maintained. Cost-based experience rating is a necessary element in the financial management of workers' compensation in Ontario. Experience rating programs such as NEER are important from an equity perspective. NEER

specifically allows for that refinement. The program should be revenue-neutral. We support that a prospective-adjustment approach should also be considered. This option should be discussed with the employer community, and there may be room for specific industry initiatives.

That concludes our specific comments that we wanted to make this afternoon. There's more in the written materials. We'd be pleased to answer any questions that people may have.

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much. You're right on time. We'll go to the official opposition. Mr. McDonnell.

**Mr. Jim McDonnell:** Thank you for coming out today. You bring to us some of the alternative views. I guess I look where the accident rate is down 45% over the last 10 years but our rates are up significantly, actually doubling—I shouldn't say, our unfunded liability. Do you have any ideas of where you might see this going or what some of the basic solutions are? Because within it, you would tend to think that rates should be going down.

1550

**Mr. Ian Howcroft:** Yes, well, the health care costs continue to increase and the duration of accident attendance continues to increase as well. So the incidents are significantly reduced, but the other costs continue to go up for those reasons.

We've seen a huge increase in the unfunded liability. Part of that, or a lot of it, is due to indexation. The unfunded liability, about six or seven years ago, was down to about \$5.5 billion, but it has skyrocketed again up to about the current unsustainable level of \$14 billion. We think that there has to be a real focus on dealing with that unfunded liability because it jeopardizes the whole system. It is a disincentive to retaining and attracting business to Ontario, which jeopardizes job creation, which we all want. We do support that we have an equitable and fair system that treats employers with respect and provides them the necessary compensation, but it has to be well within the affordability that the employer community has to fund.

**Ms. Maria Marchese:** If I may add to that, in terms of costs, the board has implemented some new work re-integration policies. That's a way of returning the injured worker back to the workplace on a much more timely basis. Then there are obligations with those policies on both workers and employers to ensure that their obligations are in fact carried through and those workers are returned to the workplace as soon as possible after an injury to maintain that connection to the workplace.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you very much. I appreciate you being here very much. From a manufacturing and exporter perspective, you know how important a solid business foundation in this province is. I'm sure at your association you feel the pressure and the angst when a company announces a relocation to the States because



the cost of operating in Ontario is just too high. You know what that's all about.

I just want to point out that about three years ago, the Auditor General recommended that the province assume the unfunded liability of WSIB at that time, which essentially would have doubled the province's debt and made the foundation for our entire economy even more shaky. In your opinion, what really has happened at WSIB and what solutions would you suggest to attract business and jobs back to Ontario?

**Mr. Ian Howcroft:** Well, I'll start and then I'll turn it over to Maria. I think that in the last two years, we've seen some marked improvements at the WSIB. I think that for the first time in almost a decade, they didn't have to draw down from the investment fund; they had an operating surplus. So that was a positive step. I think we had supported the splitting off of the prevention function to the Ministry of Labour so that the WSIB could focus on the financial crisis and the financial issues that it was best placed to deal with. I think you have to look at the principles of insurance to deal with the issues and also the amount of affordability. A lot of the premiums that employers are paying now is to cover the unfunded liability that's going to be with us for quite a few years. The Auditor General has told the government now that it has to get a plan in place or it will be having to recognize the unfunded liability on its books, which would be detrimental to attracting and selling bonds in New York and attracting investment to Ontario.

We do think that we have the focus, we have the attention and we have to move forward to deal with that very large unfunded liability.

**Ms. Maria Marchese:** In that study, part of the rationale for that was that the government did make decisions on enhancements to entitlement and they did have a significant impact. The idea was, again, the politicization, really, of the workers' compensation system, so that if the government is making those decisions, really, the government should assume the financial responsibilities that come with them. That was part of the background to that.

**Ms. Lisa M. Thompson:** Okay. So if I was to stretch it then, is it fair to assume that you're in favour of the 30% to 35% that aren't paying WSIB right now to start incurring this to help offset the unfunded liability. Is that really fair in terms of growing our small business?

**Mr. Ian Howcroft:** No, we don't think that. If you expand coverage and introduce new classes, they should not be saddled with the unfunded liability that is there. I think that's what we've called for for the royal commission, to look at what make sense, who should be covered under the workers' compensation in 2012 and beyond? A lot of things have changed since the system was created, but there may be some sectors, there may be some workers that are already well covered and there's no need to bring them in. If there is, that would be something the royal commission could consider, but we don't think that you can bring in other employers to pick up the unfunded liability that was already there.

**Ms. Lisa M. Thompson:** Okay, so you're not in favour of Bill 119?

**Mr. Ian Howcroft:** I should know what that is, but I—

**Ms. Lisa M. Thompson:** It's essentially extending WSIB to that 30% or 35% window of folks that aren't currently paying into WSIB.

**Ms. Maria Marchese:** That's construction, though.

**Ms. Lisa M. Thompson:** Construction, yes.

**Ms. Maria Marchese:** That's the construction sector. We haven't discussed that one because it deals mainly with the construction sector. I'm sure you've had those discussions, whether there's support in the construction sector for the expansion of that coverage. Generally in the manufacturing sector we think that it definitely has a place in the larger discussion.

**Ms. Lisa M. Thompson:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Ms. McKenna.

**Mrs. Jane McKenna:** My question to you is, what do you think the problem is with WSIB? I mean, clearly it has a serious problem. Is it a revenue problem or a spending problem? What do you think it is?

**Mr. Ian Howcroft:** Well, I think they've had a variety of problems. I think we have to have a holistic view to correct all areas where they've had challenges.

Our view is that we have one of the most generous systems in all of Canada. We think we've seen increased benefits. We've seen some of the systems make changes that had huge cost implications where they need not have been. We did recognize there were some areas where there might have been some inadequate coverage of benefits. Still deal with that, but don't deal with that in a blanket approach. Deal with the problems and the issues that will allow you to address it without adding costs where they shouldn't necessarily be.

We've got examples of overcompensation as well; we're the richest workers' compensation system that we have in the country, and we have to find ways that we can pay down the unfunded liability.

**Mrs. Jane McKenna:** Okay, thank you.

**The Vice-Chair (Mr. Phil McNeely):** No other questions? The time is almost up. You have another two minutes. Do you want to get in any other questions?

**Mr. Jim McDonell:** Do you have a lot of examples of where benefits were exceeded or where they shouldn't be paid out? Does your industry have many examples of that?

**Ms. Maria Marchese:** I think your best example of that, really, is in the loss of earnings with the lock-in, the 72-month lock-in where, following that lock-in period, the board is responsible for those payments, regardless of whether an injured worker finds a full-time job that more than replaces his wage loss the day after it's locked in.

**Mr. Jim McDonell:** Are there—I guess after a period of 10 years, I believe, or five, six years, they're locked in.

Other examples? Have you seen examples of where benefits should have been removed because the issue has taken care of itself?



**Mr. Ian Howcroft:** Well, I think we've seen an improvement in the way that claims have been adjudicated. At the time, we used to have a lot of complaints from our members about benefits being wrongly given, inappropriately given, but we've seen and we hear less of those on an ongoing basis. I think the WSIB has improved the adjudicative process and the way that benefits are given. So I think, as I say, we have seen some marked improvements over the way the system has run and the operation has gone over the last few years. But we still have the unfunded liability that continues to be a huge focus and a huge burden that we have to find a way to deal with.

**Mr. Jim McDonell:** Okay.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. The time is pretty well up. We'll go to the third party and Mr. Natyshak.

**Mr. Taras Natyshak:** Hi. Thank you for appearing before the committee. I come from Windsor, a large manufacturing centre. Certainly the massive and mass exodus of good-paying manufacturing jobs was prevalent prior to any unfunded liability that ever existed within the WSIB system. I would even point to the early 1990s as one of the turning points in the exodus of those jobs, and it was never clearly articulated that WSIB premiums were the reasoning. I'm wondering if today you sense from your members that the WSIB premiums that are levied to your members are—what percentage a factor are they in the daily operations of their business? How do they truly affect their bottom line?

**Mr. Ian Howcroft:** It varies greatly. There are numerous rate groups, so depending on what you're paying, it has a bigger impact on some sectors than others.

I would take issue with some of your comments with regard to the exodus of manufacturing jobs. From 1992 to 2002, we saw a huge increase in manufacturing jobs. We went from 745,000 manufacturing jobs in 1992 to about 1.2 million in 2002. During that period, we did see an increase in the unfunded liability as well, so I think that you can draw some comparisons over when the unfunded liability was increased and when it was decreasing. I think there are several ways of looking at that.

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We've seen a decrease in manufacturing jobs, again, from 2002 to the current year, for a variety of reasons. A lot of those were pertaining to the value of the dollar and some other issues that impacted our competitive position in global markets, so there are a lot of factors that come into play. With regard to workers' compensation, it's one cost that's looked at—it's an important cost—but there are other factors as well: the energy costs, the labour costs and the regulatory burdens that companies face. Workers' compensation is just one of those issues. For some who are paying a very high premium, it's a bigger factor for them. If you're paying less of a premium, it doesn't have as big of an impact. But it is something that most of our members are looking at, and manufacturers do pay on average a higher premium than other sectors because of the risks involved.

**Mr. Taras Natyshak:** Back to the exodus of good-paying jobs—it's my backyard. Maybe Windsor and Essex county have been more particularly hit with the exodus of jobs than other regions. I've seen it as my family and friends have all suffered in that degradation of that sector.

My wife is a fifth-generation small business owner. They've actually been selling Chevys in Essex county for over 85 years. They have just close to 100 employees. They certainly manage their health and safety program adequately. They've been fortunate not to have been exposed to a lot of workplace injuries over those years—fortunate; they've actually been lucky. What they're asking for is consumer confidence, and in that respect, what they need here are consumers who actually have decent levels of employment and decent futures for their livelihood. That also falls into play with folks who have been injured. If their supports, if their levels of support have gone down, then they're in precarious financial positions and aren't able to make those purchases.

I know we're all trying to square the same circle here in terms of balancing businesses' needs and the needs of injured workers, and ultimately, that's what I think we will get to. I do think that your royal commission idea has some merit to it, although I've seen many royal commissions come and go without the vast majority of those great ideas coming into play. One I would point to is the Romanow report on health care that really would have addressed our long-term-care crisis nearly a decade ago.

All that stuff being said, I'm wondering—you pointed to the metrics of overcompensation. I've never had someone walk into my community office in Essex and tell me that they're being overcompensated under the WSIB regime. In fact, we are bombarded by claimants who can't access compensation at all. I'm wondering if you can narrow that scope down for me so I can actually do a little bit more research on it to see if that is actually something that's happening on the large scale.

**Mr. Ian Howcroft:** I guess Maria mentioned about how the locked-in provision is the main one that we have brought to our attention, where people have benefits locked in no matter what happens to them—and I'd also be surprised, too, if someone came to you and said that they were being overcompensated. So that would surprise me, too. But we do hear the examples, the locked-in provisions, where claims were granted in the employer's, the company's, view, inappropriately. The claims weren't related to the workplace, in their view.

As I say, we've seen some improvements in those adjudicated cases, so we see less of those claims than we did before. But five, 10 years ago, we were getting a lot of discussion around our tables dealing with the inadequacy of the adjudication and the provision of benefits that our members didn't feel were really appropriate under the workers' compensation system. Were they arising in and out of the course of employment? Maybe the ones that we saw back then weren't. But as I say, we have seen some improvements in that area, so it's less of



a focus for us. But we're still burdened with some of those costs that have added to the unfunded liability.

**Mr. Taras Natyshak:** Even Mr. Marshall this morning, in his opening statement, alluded to the fact that the major reason for an unfunded liability within the system is the downgrade in premiums that happened in the late 1990s. Would you validate that statement? Would you make those correlations to where we're at today? I know you mentioned that increases in benefits have been one of the reasons, but if you're taking in less money, obviously, eventually you are going to have some sort of a deficit.

**Mr. Ian Howcroft:** When the premiums were decreased, they were decreased based on a huge decrease in the unfunded liability at the time. I think the unfunded liability went from about \$11.8 billion or \$12 billion down to about \$5.5 billion. They were based and predicted on the information they were getting from the board actuaries and other financial information. With the unfunded liability being reduced to half, there was the opportunity to reduce the premiums that were being paid at the time.

There have been a lot of things that happened since then with regard to equity markets, the fall of the investment portfolio's value and the indexation that occurred that added a couple of billion right to the bottom line of the unfunded liability to get us back to where we were.

I think when you look back at the time when the premiums were decreased, there was a good rationale, based on the actuarial assumptions that were made and the analysis that was done at that time that showed they could be reduced because there was a huge decrease in the unfunded liability back at that time.

**Mr. Taras Natyshak:** Arthurs recommends getting us past the tipping point at 60%, and he also put a timeline on it today at roughly five to six years. Would you think that having reached that threshold, we would then start to claw back or should claw back any premium increases at that point, or should we continue to expand any projected premium increases to ensure that the fund is wholly funded at 100%?

**Mr. Ian Howcroft:** We do agree that we have to deal with the unfunded liability. That's why we're calling for a royal commission to take the holistic view to make sure that we have all parties' and all stakeholders' interests taken into account. We think employers are paying an enormous premium right now. It's one of the highest, if not the highest, across the country. We can learn from what other provinces have done to deal with their unfunded liabilities, to resolve those, over the years.

We don't think just adding more premiums to employers is the answer. They're already faced with huge challenges globally to attract investment, to retain investment. What we want to do is ensure that we have the jobs here that allow us to maintain the workers' compensation system and the other economic opportunities that we benefit from in Ontario because of manufacturing, and other jobs, too. It's not just manufacturing; it's all sectors that are paying into workers' compensation.

**Mr. Taras Natyshak:** How am I doing, Chair?

**The Vice-Chair (Mr. Phil McNeely):** You've got one minute.

**Mr. Taras Natyshak:** One minute. Did you want to jump in?

**Miss Monique Taylor:** Hi. Thank you.

**Mr. Ian Howcroft:** Hi.

**Miss Monique Taylor:** Again, back to examples of service cuts, ergonomics especially, you must face these issues, whether it be in your office settings or at machinery. Having people like this cut out of our system, do you not think that would be a huge burden on you as a business?

**Mr. Ian Howcroft:** I think we agree that you need to deal with the ergonomics issues and you need to deal with some of the other service issues, but is the WSIB the best place, the best way to provide those services? There may be better ways to do it. Again, that's why we're looking for a royal commission, to come up with the best opportunity to provide those services.

At one time, the WSIB was expanding and adding more and more services that added to the cost, and it wasn't proven to be the most effective or efficient way to provide those services. I think there are better ways you can do that. We agree that the best thing to do is to get a worker back to work as soon as possible. Some of the services, the way they had been established, were causing delays and not allowing us to realize those goals as employers and as workers who wanted to get back to work.

So I think it's important to look at the services that are needed, but I think we have to be also looking at what we need to do and the best way of providing those services. Just having them provided through the WSIB is not necessarily the best way to provide services.

**Miss Monique Taylor:** No, I agree, but you would agree that these services are necessary to make sure that your businesses can be a safe work environment, which then would lead to the fact of not having people needing to claim WSIB, correct?

**Mr. Ian Howcroft:** We agree that the best thing to do is to prevent an accident from taking place. If an accident, unfortunately, does take place, the next best thing to do is to get that worker dealt with from a health and safety perspective and then get them back to work from a compensation perspective as quickly as possible.

**Miss Monique Taylor:** Right, and—

**The Vice-Chair (Mr. Phil McNeely):** Thank you. Time is up. We'll go to the government and Ms. Albanese.

**Mrs. Laura Albanese:** Thank you. I'll be sharing my time with MPP Cansfield.

I just have one question, and that is, have there been any studies that you know of that would indicate what cost impacts the manufacturing sector would have if there was no insurance system like the WSIB and what the cost stress would be to your sector?

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**Mr. Ian Howcroft:** I'm not aware of any. We haven't done any to look at that. We've always been sup-



portive—well, for the last 100 years, we've been supportive of a public workers' compensation system, but for the last five or six years, we have advocated that it's time to go back to first principles to see what we need to have vis-à-vis workers' compensation for all stakeholders—employers, workers, government and general society—as to what will best serve them as we go forward. But we haven't done an analysis as to what the cost would be if it was all under private insurance, if that's what you were asking.

**Mrs. Laura Albanese:** So you are in favour of a publicly funded system, but you want this more comprehensive review?

**Mr. Ian Howcroft:** We have been supportive of a public system, but we recognize there's challenges in that public system that need to be addressed. Again, let's have the royal commission to give that holistic view as to what are the opportunities, what are the options that we can look at as we go forward. It may be that there are certain ways we can do things differently, but we have been fairly clear that the best way to do that is, again, with that royal commission that looks at everything, and not just a piecemeal approach.

We think we've seen some great successes and improvements with regard to prevention—the Dean report, Mr. Arthurs's review, and consultation reviews—but, again, it's piecemeal and it doesn't all join together as positively and as productively as it could if it was done within the context of a broad review.

**Mrs. Laura Albanese:** Thank you. I will pass it to MPP Cansfield.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Hi, Ian and Maria. It's so nice to see you. This is a review of the WSIB, so while I appreciate those broader policy issues, I really like some of the other ideas that you've brought forward. I think they may be a little provocative but they certainly speak to the thoughtfulness in which you're looking at this whole issue from your perspective and who you represent.

But I'm particularly interested about the fact that you looked at the review of the existing cost-based programs that insist the concept be maintained, but you're looking at, are there other options to that? I'm going to ask you to expand on that in some examples.

**Ms. Maria Marchese:** There are other options currently, because you have both the cost-based, which is what NEER and CAD-7 fall under, and you have the practice-based, which is where you have the safety groups and safe communities.

**Mrs. Donna H. Cansfield:** But you also said the whole issue around co-payments and a whole bunch of other opportunities and terms, and I was just curious as to, had you fleshed any of that out?

**Mr. Ian Howcroft:** We have looked at certain aspects. We had talked about and discussed this as an organization across the country, and we found the waiting periods were tried in certain areas, and there was some great value in having that; having self insurance for

the first week or two weeks, allowing companies to deal with that, as they do in Quebec, I think. There are a lot of opportunities where you can reduce the number of claims the board has to process, still protect the workers, the employees are still part of the system—however, there's going to be savings realized by allowing for more flexibility in dealing with some of these things.

Again, for 100 years, the workers' compensation system has been paid solely by employers, and it's employers that are paying for the prevention services at the Ministry of Labour as well. We're also paying, sometimes, a lot higher than what the OHIP premiums are; we're paying for some of those costs that probably should be equitably allocated to OHIP. That's what we think we need to look at. What are the opportunities, what are the options available to ensure that workers are getting the treatment that they need, the services that they need and the benefits that they need, but allowing for improvements on the way the system operates?

The WSIB—I heard someone mention about the number of employees has been reduced, but you also look at the number of claims that have been reduced. Ten years ago there were probably 400,000 claims being dealt with; you're now down to under 200,000 claims. So you don't need to have the same people doing the same things, given the way their business and the nature of what they're doing has changed dramatically. I think we just say that we want to be provocative, we want to be innovative, and we want to look at how we can create a system that allows us to meet the goals and objectives that we all want to protect, but do it in a way that allows us to reduce costs and deal with the unfunded liability and the fiscal realities that we all have to face.

**Mrs. Donna H. Cansfield:** So having said that, I'd be really interested—maybe all of us would be—in looking at some of those, especially if they've been tried in other jurisdictions where they've had them and where they've worked, where, again, the employer and the employee, in particular, is protected. I think we would all welcome an opportunity to review that, Ian.

The other is—and I know it's a difficult topic, but again I think it's one that needs to have a discussion, and that's the issue around the pre-existing conditions. As we learn more—and hopefully it's science-based so that it's based on science and not subjective—we need to have a really good understanding of that impact on the employee as well the employer.

I'm interested—and you raise that. It says this is “not the case with pre-existing conditions. Alternately, those non-compensable costs should be charged back to the health care system where they more appropriately belong.” You said that, but you also go on to say that it's time to conduct a comprehensive review of covered and non-covered industries. Give me an example of what you mean by that.

So I want two: I want your understanding around the pre-existing conditions and also what you mean by covered and non-covered industries.



**Mr. Ian Howcroft:** I'll start with the second one, Donna. The insurance industry isn't covered, the banking industry isn't covered, and we haven't said "cover them automatically," but I think it would be part of the review: Should they be covered? Do workers in those industries need to be covered? If they can currently show that they don't need to be, that their rights are as well protected or better than what the system could provide, there's no need to expand coverage to include them. That's what we're talking about with the coverage one. Maria?

**Ms. Maria Marchese:** That's right.

**Mrs. Donna H. Cansfield:** And on the pre-existing conditions? You speak to the fact that it needs to be addressed. Actually, you raised it in here: "serious consideration within the workplace safety and insurance system. Employers should only be financially responsible for costs arising from an injury or disease which arose out of their workplace or processes. Conditions and diseases not directly the result of the workplace should be excluded from coverage." How do you make those pre-determinations?

**Ms. Maria Marchese:** That's where the grey area exists, and the board actually has included that in its entitlement consultations that Jim Thomas is chairing.

**Mrs. Donna H. Cansfield:** Taras, is that the committee that you're talking about that has just been reinstated on occupational diseases?

**Ms. Maria Marchese:** No. It has just been established with Jim Thomas chairing it and they're looking at four entitlement policies, and an aggravation basis is one of them. A good example is a case where a worker has a back injury and then has an injury at work that aggravates that back injury. At what point does that aggravation cease and in fact the condition that exists cease because of the work-related injury, the condition that exists that was pre-existing? That's the grey area that we need to have some sort of discussion around and more finality to in terms of going back to employers being responsible for the costs of injuries resulting from their workplace or their workplace processes.

**Mrs. Donna H. Cansfield:** Okay, fair enough.

**The Vice-Chair (Mr. Phil McNeely):** Time is up, almost.

**Mrs. Donna H. Cansfield:** And then the last one is expenses that were not included, so I concur.

**The Vice-Chair (Mr. Phil McNeely):** I wish to thank the Canadian Manufacturers and Exporters, Ms. Marchese and Mr. Howcroft, for the presentation.

I thank all the presenters today and the people who attended. Thanks, staff and members of the committee. This committee is now adjourned until tomorrow morning at 9 a.m. Thank you.

*The committee adjourned at 1618.*











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### **Vice-Chair / Vice-Président**

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Mrs. Donna H. Cansfield (Etobicoke Centre / Etobicoke-Centre L)

Ms. Helena Jaczek (Oak Ridges–Markham L)

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Ms. Jane McKenna (Burlington PC)

Mr. Taras Natyshak (Essex ND)

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Legislative Research Service



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## Assemblée législative de l'Ontario

Première session, 40<sup>e</sup> législature

# Official Report of Debates (Hansard)

Thursday 5 July 2012

# Journal des débats (Hansard)

Jeudi 5 juillet 2012

## Standing Committee on Government Agencies

Agency Review:  
Workplace Safety  
and Insurance Board

## Comité permanent des organismes gouvernementaux

Examen des organismes  
gouvernementaux :  
Commission de la sécurité  
professionnelle et de l'assurance  
contre les accidents du travail



Chair: Bill Mauro  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES  
ORGANISMES GOUVERNEMENTAUX

Thursday 5 July 2012

Jeudi 5 juillet 2012

*The committee met at 0902 in committee room 1.***The Clerk of the Committee (Mr. Trevor Day):**

Honourable members, it is my duty to call upon you to elect an Acting Chair in the absence of the Chair and the Vice-Chair. Do I have a nomination?

**Ms. Helena Jaczek:** I nominate Dr. Shafiq Qaadri.

**The Clerk of the Committee (Mr. Trevor Day):** Mr. Qaadri, do you accept the nomination?

**Mr. Shafiq Qaadri:** I do. Would I be permitted to give a speech for my mandate?

**Interjection:** No.

**The Clerk of the Committee (Mr. Trevor Day):** Are there any further nominations?

There being no further nominations, I declare the nominations closed and Mr. Qaadri elected Acting Chair of the committee.

**The Acting Chair (Mr. Shafiq Qaadri):** I thank the committee for their vote of extreme confidence.

AGENCY REVIEW:  
WORKPLACE SAFETY  
AND INSURANCE BOARD

**The Acting Chair (Mr. Shafiq Qaadri):** As you know, we're here to review a number of concerns with regard to the Workplace Safety and Insurance Board. We have a number of presenters who are outlined. Each member should have received copies. I'd just respectfully remind each presenter that each stakeholder has 10 minutes for their presentation, following which each caucus will have 10 minutes in rounds for questions. I do also just remind us all that the timings will be enforced very rigorously.

OLD ORDER MENNONITE  
GOVERNMENT RELATIONS COMMITTEE

**The Acting Chair (Mr. Shafiq Qaadri):** I will invite our first presenters to please come forward. Welcome, Mr. Weber, Mr. Frey and Mr. Shantz of the Old Order Mennonite Government Relations Committee. Please be seated. I'd invite you to please introduce yourselves for Hansard. I'd invite all members of the committee to begin, please.

**Mr. Aaron Weber:** My name is Aaron Weber. I'm a resident of Perth county and chairman of the Old Order Mennonite Government Relations Committee.

**Mr. Levi Frey:** I'm Levi Frey from Mount Forest. I'm the secretary of the committee.

**Bishop Ian Shantz:** I'm Ian Shantz, senior bishop from the Old Order Mennonites.

**Mr. Aaron Weber:** First of all, I would sincerely like to thank you for the opportunity to present our concerns to this committee today. We have been asked to represent the Old Order Mennonites and the Old Order Amish, who hold deep religious convictions against participation in insurance programs. We are pleading for a religious exemption or other acceptable resolution to our dilemma with WSIB.

This plea is made on behalf of approximately 60 congregations in a dozen denominations throughout Ontario with an estimated population of 10,000 people. These groups hold strongly to traditional lifestyles that do not allow automobiles, radio, television, Internet etc. We're often referred to as the "plain people" or the "horse and buggy people." If you were to visit each of these groups separately, you would notice some differences in our customs and community practices. The groups we're representing share the same belief and practice of helping each other within our faith communities in times of illness, injury, disaster or other hardships. All of these groups refrain from participating in any insurance programs. Participation in insurance plans runs counter to our commitment of bearing each other's burdens.

In the past, we found ways to avoid involvement with workmen's compensation insurance, but in the last few years we are being pushed into a dilemma from two fronts. Traditionally, most of our people have been self-employed as farmers, but more and more people must resort to other occupations as a supplement or alternative to farming. This creates employer and employee relationships that legally need to conform to the Workplace Safety and Insurance Act.

In 1974, our groups obtained religious exemption from participation in the Canada pension plan for self-employed earnings. At that time, few of our people were employed other than on farms. Many of these farmers hired young people from within our faith communities to work for them. Government actually encouraged us to structure these business relationships so that these workers could be considered self-employed on their income tax returns. These arrangements worked for about 35 years.



The introduction of Bill 119 severely impacts us. Next to farming, construction has become the second most common occupation for our groups. Many of these people have avoided this insurance by forming partnerships or using other ways to be self-employed. After this year, this will no longer be a legal way to avoid WSIB.

The insurance issue is a matter of principle; it is not a monetary issue. So why don't we simply pay the premiums without ever intending to collect any benefits? We are, after all, paying all our taxes, even though we do not accept government handouts and funding. Why can't we use the same rationale and simply pay the premiums without ever collecting?

The point we really want to impress on your minds is this: Involvement in any insurance program is a direct threat to the very principles fundamental to our faith community values. Accordingly, we want to be perfectly clear in our distinction between taxes and insurance, and our belief in separation of church and state. We do believe in paying all our taxes. The allocation of tax money is left to the discretion of government. If WSIB were funded through general tax revenue, we would not object to paying. We could still decline to accept the benefits. However, because the Workplace Safety and Insurance Board is an independent government agency committed entirely to the specific administration of this insurance program, many of us have convictions against voluntarily paying these premiums. Paying premiums to an insurance program identifies us as part of that system regardless of whether we ever collect or not. Also, paying premiums brings us one step closer to the acceptance of such benefits through the erosion of our convictions.

In our minds, there is a definite difference between charity and insurance. Practising true charity among ourselves maintains a cohesive fellowship where we care for and appreciate each other. If we choose to replace these faith community values with insurance, we no longer have quite the same bond of a caring brotherhood, and we no longer really need each other at the same community level. Instead of the personal interaction of sharing and caring, insurance tends to become a system of rights and obligations.

We acknowledge government's intent of fairness in treating all persons equally. We understand the intention of universality. We would like to suggest that the provisions for religious freedom under the Constitution Act of Canada deserve regard as well. Precedents have officially been set that provide positive discrimination in similar cultural or religious issues. We have already mentioned our religious exemption from the Canada pension plan on self-employment.

A more recent example involving Old Order Amish ended with a court ruling I would like to quote from: "The equality necessary to support religious freedom does not require identical treatment of all religions. In fact, the interests of true equality may well require differentiation in treatment.... The main consideration must be the impact of the law on the individual or group concerned."

**0910**

I believe the ruling of that case is relevant to the issue we face today. The intended fairness of universal insurance participation conflicts with our freedom of religion.

We appreciate government's concern about the so-called level playing field of competitive industry. We understand the concerns about exempting a few select groups from paying these mandatory insurance dues while others must comply. We also believe that our groups should not have an unfair advantage over others. However, there are several points we want to make about this concern.

(1) For employer-employee relationships, we are only asking for exemption in situations where both the employer and the employee are members of the proposed qualifying groups. In a situation where either the employer or the employee would not be a member of such a group, we agree that we would need to pay these premiums. This would ensure that nobody takes advantage of collecting WSIB benefits unless they are registered and paying their dues.

(2) Our groups are, in fact, already supporting our own system of aid without any dependence on other insurance or government funding such as OHIP, accident or disability benefits and pensions. We believe that the issue of fairness can be considerably levelled by the recognition that we provide our own self-sustaining system of helping each other in times of injury, illness, disaster and other hardships.

(3) As previously mentioned, we do pay all our taxes, but we do not accept government funding such as OHIP, accident or disability benefits, pensions, child tax benefits or supplements, HST credits, farm income stabilization programs, farm subsidies or other government grants. Our refusal to accept government funding and insurance demonstrates the sincerity of our convictions.

(4) We would be willing to have further discussion about paying amounts equivalent to WSIB premiums to an alternative tax used as general tax revenue or to an acceptable charity.

(5) Our convictions that do not allow us to participate in insurance remain non-negotiable.

Some of our members have experienced garnishments because of their refusal to voluntarily pay these premiums. There is no doubt that there will be more and more cases like this unless a resolution can be reached.

Are garnishments satisfactory as a long-term solution? Unless government is willing to seriously consider the possibilities of resolution, we really have no other options than to accept all forthcoming consequences.

Preservation of our community values is of utmost importance to us. We are trying hard to explain our position and hope we can convey the sincerity of our plea for resolution. Can you help us?

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, gentlemen, for your precision-timed remarks. We now invite the NDP caucus. There will be 10-minute rotations, beginning with Mr. Natyshak.



**Mr. Taras Natyshak:** Good morning. Thank you so much for your presentation this morning. The complexities of this issue as well as many others that involve religious rights and freedoms and the relationship between church and state is really one of the more interesting aspects of my job. It's actually why I enjoy it so much. I get to understand and learn about those complexities and try to help weave our way through them, as I'm sure my colleagues do as well. So thank you for your presentation. It conjures up a whole host of questions and concepts for me that I don't think I'll be able to fully work out, entering the context of this committee hearing. However, I do appreciate and understand the direction and the intent of your presentation today.

I do appreciate also some of the ideas that you've put forward in terms of mitigating your involvement in the workplace compensation system. Some members may have differing opinions of what the actual mechanics of the system are. Indeed, some may believe, as we do in the NDP, that it should be a compensation system rather than an insurance model and should follow the lines of that directive. However, in that light, I understand your concerns.

I'm wondering if you could tell us what workplace safety systems you have in your community. Could you bring us through a day in a workplace within one of your communities and how you've worked towards ensuring that there's safety on the job within the Mennonite community?

**Mr. Aaron Weber:** May I ask one of our delegation back here, the secretary of our safety committee, to speak on that?

**Mr. Taras Natyshak:** Sure.

**The Acting Chair (Mr. Shafiq Qaadri):** Yes, of course. At the microphone, please. There's enough ventriloquism here.

**Mr. Taras Natyshak:** Welcome.

**Mr. Aaron Bowman:** Thank you for the privilege to address this issue. I am the secretary of our Old Order Mennonite safety committee. We were appointed by the elders of the church. There's—

**The Acting Chair (Mr. Shafiq Qaadri):** Sorry. Could we just have your name for the public record?

**Mr. Aaron Bowman:** Aaron Bowman.

**The Acting Chair (Mr. Shafiq Qaadri):** Go ahead.

**Mr. Aaron Bowman:** We were appointed by the elders of the church, and our mandate is to teach and promote safety within our community. We meet once a year as a committee and hold safety awareness workshops through the school as our avenue of doing that. Recently, we have been meeting with regional planners for road safety.

But as far as workplace safety, we stress the importance of it. We meet with police, first responders and other people who teach safety, like WHMIS and that.

I don't know if that answers the question.

**Mr. Taras Natyshak:** Well, somewhat. Maybe a visit to one of your workplaces might offer me a visual reference of some of the processes.

Does your community embark on aggressive, proactive safety measures in terms of mitigating exposure, some of our more fundamental aspects surrounding working at heights, confined-space training, chemical awareness, some of the basic areas within our safety regimes? Is that a part of your community?

**Mr. Aaron Bowman:** One of the people that we would meet with regularly as a committee and then convey those concerns out to the broader community through our school—I mentioned the school workshops—is an instructor for WHMIS, fall arrests, confined spaces. We encourage people in especially the chainsaw safety courses, because we are farm-oriented and would be working in woodlots. So that is one of the things.

One of the things we really encourage people to do that are employers in wood shops, welding shops, farmers for sure: We have a safety checklist that they would go through with an employee before the employee starts. The checklist is fairly comprehensive. It is signed by both the employer and the employee to indicate that they understand the points on the questionnaire and that. There's another space to further describe any training that was provided. One of the questions is, "Is the employee comfortable with the assignment?"

**Mr. Taras Natyshak:** Would you have specific designated workplace safety representatives on each job, similar to the mandated requirements under the WSIB? Do you follow some of the mandated legislative requirements regarding health and safety legislation?

**Mr. Aaron Bowman:** If I understand your question correctly, the requirement, as spelled out by the Occupational Health and Safety Act, would be—I think it's that if there are more than five employees, a safety rep is needed; if there are more than 15, I think there's a committee needed. I may be a little off on those numbers—

**Mr. Taras Natyshak:** Twenty, yes.

**Mr. Aaron Bowman:** In our circles, there are some, but few that have five or more employees. I think the answer is, no, there is no specifically designated safety rep where there might be in excess of five.

0920

**Mr. Taras Natyshak:** Because I would want to be comfortable—it's sort of outside of the involvement of and participation within the WSIB, but I would want to be comfortable that the adequate safeguards are being addressed and that those laws that are enacted are actually being followed. Although you're asking to not participate within the WSIB, you are not explicitly asking not to have to follow some of the health and safety laws within the province, right? We're delineating those two.

**Mr. Aaron Bowman:** Could I differentiate between those? We spend a great deal of time teaching and promoting the requirements of the Occupational Health and Safety Act. It is with the insurance element of that part of the Ministry of Labour that we have our difficulties, as we're trying to convey here.

We actually record all workplace accidents within our community, and that was at the behest of John Slinger



from the WSIB. We had a meeting with him some years ago. They are recorded; they're available on request.

**Mr. Taras Natyshak:** Could you tell me how a worker who was injured on the job would be adequately compensated or receive support? You mentioned within your presentation that you have some sort of a communal system that does identify and does recognize that when workers are injured there are support mechanisms there. Can you tell me what that looks like and how that works?

**Mr. Aaron Bowman:** You're looking to me, or—

**Mr. Taras Natyshak:** Anyone is fine.

**Mr. Aaron Weber:** Well, yes. As a charity rather than an insurance, whenever something happens and somebody gets injured—suppose there's a hospital stay. We all pitch together to pay his hospital bills. We don't use OHIP. We're there as a community to support him, both financially and otherwise.

**Mr. Taras Natyshak:** Do you have any formula based on that worker's prior earnings or what they may require going forward? Is it an ongoing type of system that would supplement their wage post-injury? How is that decided?

**Mr. Aaron Weber:** That would depend on the circumstances. Levi, would you be willing to speak on that?

**Mr. Levi Frey:** This plan is administered through the church, and the deacons of the church—there are approximately 25 of them—are the administrators in charge of the plan. When their fund is depleted, then they ask for more funds from the church brethren. We write a cheque and they throw it in there. Then when something happens, when there's a hospital bill, the person with the bill will hand it over to the deacon. The deacon will write a cheque to pay for somewhere between 75% and 90% of it. There is sort of a means test, not a formal means test but an informal means test. If it's somebody that can well afford the day-to-day living expenses while he's off, then—the church is a charity. Remember, it's a charity. It's not a right; it's a charity. They will supply it if it's required: if the person is poor, doesn't have enough money to cover the day-to-day living expenses. But if he has enough money of his own, if he's well-off, then the church probably will not cover lost wages.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, gentlemen. I'll need to intervene there and offer it to the government side. Mrs. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you very much for your presentation. I'm delighted that you came this morning.

Before I make my comments, I also wanted to say thank you for the extraordinary work that you do in charities throughout the world, actually. The Mennonite Order is well known for its work.

I understand what you've put forward and I think what we need to be able to do is to sit down with the Minister of Finance and his bureaucrats and to be able to do what I call the art of the possible here, along with the workers' compensation board. As the PA to finance, I undertake to do that for you, Mr. Weber. We could contact you, find a time where we could have a conversation together that's

mutually agreeable, and see how we can move forward with your concerns as you've outlined them in your brief.

So what I will do is, when we finish the meeting today, I'll be going back into my office. I'll speak with Deputy Orsini, who is the Deputy Minister of Finance, ask him whether this goes to labour, whether it's finance or it's a combination of both, and get the WSIB and see, as I always say: What is the art of the possible? How can we work to help to meet some of your—from a religious perspective.

Also, because there is a section in the Canada pension plan, obviously accommodations have been made in other areas, so maybe there's something that we're able to do here. I'm more than prepared to work with you, sir, to see what that could be.

**Mr. Aaron Weber:** Thank you.

**The Acting Chair (Mr. Shafiq Qaadri):** We're off to the PC caucus. Mr. McDonell.

**Mr. Jim McDonell:** I'm going to pass off to my colleague.

**Mr. Randy Pettapiece:** Thank you for coming. We met in my office once last fall, talking about this very subject. We did write a letter to Minister Jeffrey concerning your issues. You have had a meeting already, on June 18, with the Ministry of Labour?

**Mr. Aaron Weber:** Correct.

**Mr. Randy Pettapiece:** Can you outline what happened there?

**Mr. Aaron Weber:** We did have our meeting, not with Linda Jeffrey herself, but we had a senior policy adviser, a deputy minister, two policy advisers. They certainly did listen to our concerns, but we really didn't get any indication at that meeting what they were going to—well, they promised to get back to us, but to them it was a new issue, even though they previously had a chance to look at the letter, I'm sure, to Linda Jeffrey. What we presented to them that day was very much the same thing. I've changed a few things for today, but it's basically the same presentation.

**Mr. Randy Pettapiece:** Have you heard back from that ministry at all?

**Mr. Aaron Weber:** Not yet.

**Mr. Randy Pettapiece:** You don't accept OHIP payments if somebody gets hurt?

**Mr. Aaron Weber:** We do not.

**Mr. Randy Pettapiece:** Do you pay any premiums to OHIP through your businesses?

**Mr. Aaron Weber:** Levi, you're a tax accountant. Would you like to speak on that?

**Mr. Levi Frey:** I'm not sure how familiar you are with tax returns. On the ON428 form where you do your provincial tax calculation, the very last thing after you've deducted all the things you can, somebody tacked something at the very end called a health premium. Yes, we pay that. We call it a tax because we believe that was the intent of it. The only reason it's not called a tax was because of—we won't get into that. But we do pay that. Mr. Bowman pointed out that there are not too many large employers, so most of us do not get into the Ontario



health tax because—I forget what the limits are; I think it's \$400,000, and there are very, very few businesses within our community that reach that level. But yes, we would pay it as a tax.

**Mr. Randy Pettapiece:** But if someone gets hurt and you need to go to the hospital or your doctor, you pay that out of your own pocket. You do not dip into OHIP.

**Mr. Levi Frey:** That's correct.

**Mr. Randy Pettapiece:** So what you're considering with the WSIB is not to pay the premiums because you do not accept payment from WSIB if something happens. Is that correct? Even though some of you are paying premiums?

**Mr. Aaron Weber:** Yes. We don't collect the benefits of OHIP. Again, it's not a monetary issue. It's not the money. We're offering to pay an equivalent amount, an alternative tax, but what we don't want to do is to be a part of an insurance system.

**Mr. Randy Pettapiece:** I understand that, but I think it does get down to money in some people's minds. Do you know what I'm saying? I understand your position, the religious part of your—you've explained that to me before. However, it may seem to some people that you're trying to get out of paying something. That's all I'm saying here.

Anyway, I'm going to pass it on to my colleague Jane.

**Mrs. Jane McKenna:** I'd like to say we can learn something from you. Not everybody is a chatelaine, and it is—you can hear the passion in your voice. This is about your beliefs. It's not about taking something from the system. You, to me, are an asset to the WSIB, that you pay into something and take nothing. I've actually been out to your sites before and see how you work with your barns. You're probably more on top of your accidents, not having any, as opposed to anybody else, by how you all work together as a team. So I wanted to bring that up.

I have a question, though: In light of your principled objections to insurance and paying WSIB premiums, if you do not obtain religious exemption, what do you view as your options?

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**Mr. Aaron Weber:** Our only option at this time is to accept garnishments, and those garnishments have been happening. We expect that will certainly increase once Bill 119 is in full effect. But that's the only recourse we have. They'll come in, they'll seize the bank account and they might make a third party claim. One thing that's not as handy for us is if they make third party claims.

Let's suppose—I myself have a woodworking shop—one of my dealers, for instance, gets instructions that he may not pay me; he has to pay the government instead of paying me. Actually, it doesn't really help business relationships. It's inconvenient. We're not going to resist garnishments. We'll even strive to have amounts in our bank accounts that it can happen if we know it's going to happen, but we're not voluntarily doing that. Have I answered your question?

**Mrs. Jane McKenna:** Yes. You've got a great presentation here today. I would just say that you should really be thinking on the other side, if this is the situation and things aren't going to change because you need legislation to change it: What are you going to do to make it different for yourself; how can you look at your own business plan or what you're doing to move forward, right? Because the only option you have right now is, your wages are being garnished.

**Mr. Aaron Weber:** Yes, that's the only option we have. That's the only option that's left for us.

**Mrs. Jane McKenna:** Right, right.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Ms. McKenna, and thanks to you, gentlemen, for your deputation on behalf of the Old Order Mennonite Government Relations Committee.

## UNITED FOOD AND COMMERCIAL WORKERS CANADA

**The Acting Chair (Mr. Shafiq Qaadri):** I'd now invite our next presenters to please come forward. Representing United Food and Commercial Workers Canada: Mr. Neath, Ms. Backus and Mr. Depoe. Welcome, and I'd invite you to please be seated so we can keep to the schedule. You've seen the drill: 10 minutes initially, followed by 30 minutes in rotation for questions. Please begin officially now.

**Mr. Bryan Neath:** Thank you, Chair. My name is Bryan Neath. I'm the Ontario director of United Food and Commercial Workers. To my left is Sherree Backus. She's a benefits representative of Local 175. To my left is Eric Depoe, who also is a benefits representative, of Local 1000A. They are the two people who know all of the ins and outs of the WSIB and assisting workers in their struggles in terms of getting benefits at the board. For me, as the Ontario director, I'm more on the political side of the scene.

Today, we have a submission, but it's more like a report than an in-depth submission. We, the United Food and Commercial Workers, are the largest and most progressive private sector union. We represent over 250,000 members across the country. Here in Ontario, we represent, in retail, food processing and hospitality sectors, more than 120,000 members who live all across Ontario, from Kenora to Cornwall, from Elliot Lake to Windsor.

USCW members may be your family members, friends or your neighbours. They are your grocery clerks and cashiers at your supermarket. They work at all of the Beer Stores in Ontario and they also work in meat packing plants. They take care of your elderly family members at nursing homes and retirement homes and work in many other sectors.

We represent workers in extremely small workplaces such as ones with as little as two workers, or in many large corporations. UFCW has been a long-time advocate for domestic and migrant agriculture workers. We submitted, as part of our submission in our package today, a good article from just the other day in the Toronto Star



about the struggles of migrant workers in terms of the WSIB.

Might I say: It's not just WSIB; the struggles of migrant farm workers and also immigrant or temporary foreign workers as well are extremely hard and difficult, as we know by being out in the fields with those workers. Their problem is, the minute they say something they will be, almost within minutes, put on a plane and sent back home, so it's a very difficult scenario for them.

In Ontario, our union has been active in representing our members in thousands of appeals at the WSIB and in return-to-work meetings. Additionally, we advocate on our members' behalf with a strong voice in regard to workers' compensation concerns, and over a number of decades we have acquired a thorough and practical knowledge of this system.

In our allotted time, we will not be able to spend time talking about many of the major important issues facing the board, such as review, governance, coverage, exclusions, employer incentive programs, etc., but we would definitely look forward to answering any questions in that regard after our presentation.

The last time that there were major changes in the Workplace Safety and Insurance Appeals Tribunal was in the late 1990s. In our view, the outcome of those changes was an increase in the unfunded liability, as well as the deterioration of the outcome and support for injured workers. Since then, as well, without much dialogue and with little consulting, there have been further policy and staff changes.

Now, with the proposed modernization of the appeals system, we see a growing hardship for injured workers. It appears to us that the goal of the WSIB is to eliminate oral hearings from the appeals system. With a worker unable to appear at a hearing, this approach would deny injured workers fairness and justice in a matter critical to their lives and their future.

The proposed changes put forth are even more unreasonable given that workers are already in distress and in pain as a result of their injuries, yet they would be expected to fill out even more complicated forms than in the past. The board has been contracting out translation services, making it even harder for non-English-speaking or non-French-speaking persons to understand what they have to do to make a claim, and creating far more obstacles for them to navigate.

I'm going to point out that a Mexican migrant farm worker came to one of our centres and was talking about the difficulties that they face. In their words, "You're never near a telephone. It's a problem because the boss leaves you abandoned there in the field and there is no way to communicate. If something happened to someone—a cut, a fall, a fracture—you would have to walk very far to find a road to try and stop a motorist, and on top of that, you don't speak the language."

Those who don't speak English or French as their first language are going to be faced with far more concerns in terms of filling out forms or trying to work their way through the WSIB.

And then, if that's not bad enough, in the new proposals they have the downside risk changes which will even heighten workers' fears and could even limit our ability, as representatives, to fairly assist an injured worker in a legitimate appeal. What I will do is read to you item number 8 on these new proposed appeal readiness forms. Item 8 is the declaration and acknowledgment of risk. It says, "I understand that the WSIB has the authority under section 121 of the Workplace Safety and Insurance Act to reconsider any decision at any time if it considers it advisable to do so."

The second point, which is probably our biggest concern: "I understand that in order to address my appeal, the appeals resolution officer may also reconsider other decisions in my case which may result in a change in my entitlement." It goes on to say, "I understand the potential downside risk and wish to continue with my appeal," and there are two other questions that aren't related to that. You have to sign that.

As we see it, that's bullying. That's bullying an injured worker to not pursue a claim. We find this extremely unacceptable.

What's happening now is that they're threatening to reopen cases that have already been established, using an unpublished interpretation of policy and applying the new directives to adjudicate cases. This is even prior to the conclusion of Jim Thomas's consultation process. We think this is totally unfair as well. This makes us think that the board has already concluded that the outcome of the consultation is only looking to save money on the backs of injured workers.

**0940**

To so drastically change a system that has worked for the most part over a number of years is senseless at best. Under the old system, the claims adjudicator had the time and the training to make decisions through investigation and the collection of facts from workers, doctors, employers and company witnesses. As a result, there were better decisions made, with fewer claims sent off to appeals.

Under the new system, we have what is called an "eligibility adjudicator," who has a short time limit to make decisions. The result? Poor decisions, resulting in more appeals and more backlogs. Complicated forms, time limits on decisions and poor decision-making based on little to no information are the problems, not the appeals system.

We hear calls for opting out by employers, to find their own way to pay. At UFCW Canada, we operate in partnership with some of our employers solely, as well as many multi-employer health and welfare plans, to provide such coverage. We know one thing for certain in dealing with those plans: You need the proper funding in order to cover the cost of claims. Further, the claims need to be based on fair and reliable coverage for workers.

That appears not to be the case with the WSIB, which has been committed to denying or reducing coverage for workers as opposed to raising premiums or finding other ways of funding. It seems to be their preferred method of



dealing with the unfunded liability. We at UFCW Canada do not support any of those reductions in coverages or additional clawbacks for workers.

Given the schedule of this committee, we would be prepared, if you ask us to, to do a more in-depth submission and a report for your additional deliberations. But clearly understand, from yesterday's OFL submission and recommendations, that we fully endorse them. They cover off, I would say, the majority of what we would do in a more in-depth report.

With that, we would be willing to—

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, gentlemen. We're going to move to the government side. Ms. Albanese.

**Mrs. Laura Albanese:** Thank you for your presentation. We have a few questions, both myself and my colleagues here. We heard yesterday that the WSIB implemented the new work reintegration program in 2011. Have you noticed any improvement with that, any faster return to work—any improvement, even, for the injured workers?

**Ms. Sherree Backus:** What's happening with work transition—that's a specialist that comes in now—they really explore with the employer any possibility of a return to work. Sometimes, the modifications or accommodations are so extreme that the dignity of the person performing the work is lost, because there really is no work; they are just filling a spot.

What's happening now is that the board has determined that no one is unemployable. In our cases, we usually get senior people who have worked there 15 or 20 years or more. They're injured to the point that they can't perform their own job; their own job cannot be accommodated to fit within their physical restrictions. They keep looking for something—and we've had people in retail, for example. At the front of the store, you've seen the tables, and they'll hand out coupons, coffees, cookies or something like that. It's very different for these people who have been busy all their lives. Stocking shelves, being cashiers—they're busy. For them now to go and be more or less what they tell me is “on display” for people coming in—you have to remember: After working for a while, they build up relationships with customers too. The customers come in and say, “What's wrong? How come you're up here?” and it starts to eat away at their self-esteem.

We prefer that people go back to work. It keeps their vacation pay up, it keeps their pension and it gets them out of the house and in the social life they're used to. However, we find some of the work that is given to them to be very demeaning. Yes, I would say we've had people going back more often, but sometimes that's the sole focus, and there's a loss of the person as a whole. Sometimes, that's not the solution.

**Mrs. Laura Albanese:** You state in your presentation that under the old system, the claims adjudicator had the time and training to make a decision through investigation and the collection of facts from workers, doctors, etc. It seems to me that what we heard yesterday was

exactly the opposite of this: that under the old system, there was a backlog, and now things are being streamlined, and they're working much better. Can you clarify what the view is?

**Ms. Sherree Backus:** Since the establishment of the eligibility adjudicators, if there's a denial in the claim—either initial entitlement or lost time; whatever the issue may be. When we're given access to the file, the beginning section is called the memorandum. In there is what the eligibility adjudicator has done. We're only finding two memoranda, and in neither of those have they ever spoken to the worker. They may not have the medical information, the form 8, the physician's first report from the doctor. The claim is denied. The only memorandum is a brief summary of why it's denied, and that's it.

Previously, you had memoranda where the case manager spoke not only to the worker at length, but also to witnesses that were listed on the form 6, the employee's report of injury or the worker's report of injury. Sometimes they would call the doctor or the physiotherapist.

So in fact, we're seeing the very opposite. What the eligibility adjudicator has is a time limit to move the file from their desk to somewhere else. So yes, it's being pushed along, but there's no work actually being done. That's why we said at the end of our submission that it's not the appeals process where the problem is; it starts right at the operating level with the eligibility adjudicator not being given the time to do the full investigation and, therefore, creating more denials.

**Mrs. Laura Albanese:** I have one last comment, and then I'm going to pass it on to MPP Jacek. What can be done, in your opinion, to improve the service to injured workers and to improve the relationship between the WSIB and injured workers?

**Mr. Eric Depoe:** Just procedurally, the first thing would be the elimination of delays at all levels, but I'm more familiar with the delays in the appeals. Several years ago, the delay was three or four months before we got to the first level of appeals, and then two years to get to the tribunal. The tribunal backlog is relatively similar now, but the appeals backlog at the first level of appeals is now two years as well. It could be potentially four years before someone—and at the appeals tribunal, about 50% of adverse decisions are overturned. It could be about four years for 50% of the people who are in the appeals system to actually get a verdict. In the meantime, of course, they've lost their house; perhaps they've had a family breakup; the financial stress is incredible.

The other thing that this does is, it transfers costs from where they are properly, in the workers' compensation system, to other systems. Ontario Works has greater costs because the compensation system has a backlog. The Canada pension plan was never meant to be a disability system, but injured workers apply for CPP disability because they have a three- or four-year wait before they can get an adverse decision overturned. Other agencies now have to bear the costs—taxpayers bear the costs—of these workplace injuries instead of having the employers,



who are supposed to be paying these costs, paying them. So the taxpayers pay them.

**Mrs. Laura Albanese:** Thank you.

**The Acting Chair (Mr. Shafiq Qaadri):** Ms. Jaczek.

**Ms. Helena Jaczek:** Thank you for explaining your advocacy for migrant workers. This is an area that I'm very interested in, as a former medical officer of health. Public health had the responsibility to inspect accommodations, and often found them to be very lacking, in fact. We served orders to improve the accommodations for migrant workers in York region. Explain to me what coverage WSIB provides at the moment for migrant workers and then what you would like to see in the future.

0950

**Mr. Bryan Neath:** At this stage, our understanding of the coverage is that they are covered. The employer pays the premium and therefore they are covered. That's not where the problem exists. The problem exists where they fall under a whole bunch of rules because they get sent home. The article in the newspaper is basically that. A man crushed his hand so he couldn't work at the same level on the farm where the farmer wanted him and said, "We do not need you; therefore, you go home." For him to get a claim—and, by the way, they know this process better than I do—in terms of the process now, they've got to look for another job and they have to be doing a lot of other items on there which they can't do because they're not going to be here.

**Ms. Helena Jaczek:** So how would you like to see that change? What would you recommend?

**Mr. Bryan Neath:** There's a whole bunch of recommendations that don't just cover the WSIB. The first case, for us who are in UFCW where we've been able to negotiate and when we have a collective agreement with workplaces that have either migrant farm workers—and we do have contracts with them—or with employers with temporary foreign workers, we negotiate language in a collective agreement where if something happens where, as an example, they were to be fired, before any action is taken in terms of them being sent back home or being sent somewhere, we have the right to the appeal. In this case, it would be the arbitration appeal process. So I guess if you're applying that same theory to WSIB: Before anything happened and they were sent away, they should have their hearing, and a good hearing. As Eric mentioned before, that could be four years from now. What are you going to do for four years?

There needs to be a much more improved system for them as well. Them connecting with the board is nearly impossible. We find them all because we have centres all across Canada—and there are four centres here in Ontario—which those migrant workers will come to because they don't know where else to go.

**The Acting Chair (Mr. Shafiq Qaadri):** I thank the Liberal caucus and offer the floor to the PC side. Mr. McDonell.

**Mr. Jim McDonell:** Thank you for appearing today. As you can see, I guess the WSIB has a real issue here.

Their premiums are now above average, so we're not competitive when we look at other provinces. From what you're saying, we're not doing a great job of paying out premiums, and we doubled our unfunded liability over the last five years. What would you recommend as far as a way of fixing this? The answer is not just to strictly add to the benefits where you continue to add to the system. If we increase our rates, we just result in more employers leaving the province. It's not an easy answer.

**Mr. Bryan Neath:** No, it's definitely not an easy answer. I would suggest, if I could, to you that it's not much different for us, because we are in the private sector. An employer comes to us either through negotiations or in the middle of a collective agreement and says, "We're in trouble." What can we do to help? Our answer is almost exclusively, "We're more than willing to sit down and have a discussion about what needs to happen in terms to hopefully save the employer," if you can. There's not always a case where the employer can be saved, because they don't want to be saved, potentially, and/or there are just issues surrounding them that have nothing to do with labour and/or other issues. They're just going to go.

You've got to have a discussion about what's going on. But clearly understand: For us, we represent the workers. For us, we want to make sure that what we're doing is representing them the best that we can. When it comes to them coming to us for reductions in benefits, as an example, through our benefit plan, we have very long discussions. We talk about the amount of money they could pay additional into this fund if the fund was not operating well before we ever would look at anything in terms of the reduction of benefits.

I would suggest to you that potentially with the WSIB and certainly for our advocates who deal with the cases, the problem that we have is that it's a moving target on eligibility. If you clearly knew what was going to be eligible and what could be there, then I think that the funding part could help.

The final piece on the funding part: If you literally were to follow the Arthurs report, that gives us an opportunity to start addressing the issue of the unfunded liability. I believe it has a good mixture of talking about premiums and also talking about the claims section. Without saying, of course, too many employers always want to shoot averages around. They say, "Ontario is the highest province, or one of the higher, above the average, in terms of premiums." But we're also, I think, the worst province in Canada in terms of who's eligible. There's only, like, 71% of employers that are in, and that's the worst. That's another opportunity of fixing the problem.

**Mrs. Jane McKenna:** I'm dumbfounded sitting here. I'm trying to figure out where all the money is. I guess you people are as frustrated because you're paying into something and you have nothing to show for it. So I'm sitting here kind of scratching my head.

Eric—I think it was Eric, with the fabulous glasses on—brought up a point about the money being transferred when it gets out of WSIB, and that Canada



pension is not meant to be disability. Bang on, because that is actually what the problem is. Because it does go everywhere, there isn't one place where we sit down and look and then figure out how to go from that ground solution. Clearly, it is a broken system, and we have a problem. When you talk about that and say that, that is 100% true, because the money does get put in different positions, so where is it all going? Then, in the end, it ends up probably costing more than it would have if it was allocated to the right places in the first place. I'm actually embarrassed for us, for myself and government, that the migrants are in such a vulnerable situation.

My question to you is this: The Star's article that you have here notes that "WSIB does not collect statistics based on immigration status." That seems like an important step to serving those workers, don't you agree? Or do you? What do you think on that?

**Mr. Bryan Neath:** I would agree. If you don't mind, I will take an approach of answering your deep concern with migrant farm workers and the way government has handled them. I would suggest to you, in terms of whether Quebec or BC or other provinces where there are also a lot of migrant farmers, that one of the best ways you can protect them is to give them the right to unionize, the right to join a union. If that was the case, that would improve their lot better—I didn't say it's the best, but definitely, in our case, we know that that is one of the absolutely necessary areas in which you can improve the migrant farm workers' request.

**Mrs. Jane McKenna:** So have you brought that up to the board? Have you brought that up to anybody, about that?

**Mr. Bryan Neath:** About unionization?

**Mrs. Jane McKenna:** Yes.

**Mr. Bryan Neath:** Apparently, you haven't seen our two Supreme Court of Canada cases that we fought all the way to the Supreme Court.

**Mrs. Jane McKenna:** Okay, yes. I'm sorry.

**Mr. Bryan Neath:** Yes, we've been fighting on behalf of workers, especially on the migrant—not just migrant; I should call them domestic and migrant farm workers—here in Ontario, for sure. Again, because we represent workers all across Canada, Ontario and Alberta are the only two provinces that don't allow unionization for farm workers. There seems to be, in those other provinces where that right is—that's not to say or suggest that there aren't a lot of problems that exist still in there which we have to fight. The good part, though, is that we can represent them.

**Mrs. Jane McKenna:** Okay, great. Thank you.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Mrs. McKenna. To the NDP side—

*Interjection.*

**The Acting Chair (Mr. Shafiq Qaadri):** Oh, I'm sorry. Mr. Pettapiece, go ahead.

**Mr. Randy Pettapiece:** Just a short question. Having been through this a little bit myself and been denied a claim because I broke one little rule—and it was a very minor one, I thought—it seems to me that the red tape

involved in this agency is incredible. The amount of rules that you probably have to know is insurmountable. When I asked for my claim, I had broken my ribs at my job place and was denied any compensation because I did something which I wasn't supposed to do, which was that I quit that job and went on to another one that I could work at. That was why I was denied. But there was no investigation. As soon as the person I called asked me a few questions and I said, "No, I'm not working there anymore because I went somewhere else because I could work there," it was, "Oh, well, you're denied." That was the end of the story. It was only a small claim as far as I'm concerned, so I didn't pursue it because I just didn't have the time to do it.

But if I was a civil servant or a person working for these agencies, I would just rejoice in red tape because it does discourage people from going to these agencies because you get frustrated with it. So I would suggest that we need to get a handle on that type of thing and really look at the amount of red tape involved, some of the silly rules that are involved, and get those things fixed.

Do you have any examples of some things that you might want to have a real, hard look at to get rid of some of this?

1000

**Mr. Eric Depoe:** It's difficult to put your finger on one thing and say that if you fixed X, then the system would work a lot better. I think it's partly attitude. I think now we're seeing an attitude where there's a general tightening of what goes on, and I think that comes right from the very top, from the leadership. We see things coming out, like Mr. Marshall's efforts to improve efficiency and address the unfunded liability, that have made a difference, including a new focus on increased discipline in benefit entitlement decisions. Well, what does that mean? It means we're going to tighten up benefit decisions and people who would have received benefits in the past are now not going to receive them. To me, that's what that says.

Just for your example, had you been a member of a union and you had someone to represent you, you probably could have appealed that decision and won it. You should have gotten benefits, by the sound of it.

**Mr. Randy Pettapiece:** It was only a month, and I moved on because I thought, "What's the sense of fooling around with this thing?" I quit that job and moved on and was told, "Sorry, guy, you broke a rule." So I was denied any claims.

It's difficult to change one rule and make everything better. I understand that. But we have seen an increase in the red tape involved in all government for too long, and I think it just allows people like myself to get frustrated with the system, that we just back away and then do something else. Maybe that's what's going on here right now. I just wondered if there was anything that you could—go ahead.

**Ms. Sherree Backus:** There's one portion of the modernization proposal of the appeals process, and that's the reconsideration—



**The Acting Chair (Mr. Shafiq Qaadri):** I'll need to intervene there, with apologies.

Now to the NDP side: Miss Taylor, you have the floor.

**Miss Monique Taylor:** Jeez, we have a tough Chair today.

Thank you so much for being with us today and bringing your perspective to the table, because it's definitely important.

My question is regarding the appeals procedures and the changes and the downside risk. I know it was mentioned within your report. I was just wondering if you would be willing to comment further on the potential results of this proposal.

**Ms. Sherree Backus:** We've already seen the results. For example, we had a person who pursued their appeal—the adjudicator went back 11 years or more; the injury was in 2001—allowed initial entitlement. This person had four other injuries to the same area—only allowed six weeks, revoked the permanent impairment, revoked the NEL. That means that this individual has no permanent restrictions now, so now the employer is wondering what they have to do. After living with a permanent impairment legitimately for years, the board has now gone back and revoked all entitlement.

Because that has happened in a few cases now, I believe it's our responsibility when we're pursuing an appeal for a worker to tell them of the downside risk. Unfortunately, as the gentleman said before, more and more of the workers don't want to have anything to do with it.

The oral hearings may be the only time that an injured worker actually will deal with an employee from workers' compensation face to face to get their story out. We're talking about language barriers. We're talking about unrepresented workers as well. Just imagine the difficulties we're facing. We know about the system. We're capable of representing people. What about those who are not represented? It's very discouraging.

**Miss Monique Taylor:** Absolutely. Thank you for that. In your experience, do you find that the WSIB actions are open and transparent?

**Ms. Sherree Backus:** No, because here's the other thing that's happening: We are actually getting decisions based on the board's new interpretation of existing policies, policies which are up for consultation through the Jim Thomas consultation process. If they have this new interpretation already, I don't believe that that is transparent, nor is it open, and it brings the result of that consultation process into question if the board is already, in their mind, deciding what the policies are going to be. It's discouraging because we don't have those documents. How are we supposed to assist workers when we don't know what new interpretation has been coming down the line to the eligibility adjudicators? At this point in time, those four policies that are to be reviewed—they're already implementing their own interpretation of those. So, yes, we're kind of confused.

**Miss Monique Taylor:** Thank you. As union representatives, what is your insight on workers who are not

currently represented and may be now more vulnerable under the proposed changes?

**Mr. Eric Depoe:** Injured workers who are not represented are much more vulnerable. Their option is to go and hire somebody. How do you find a person like that? It's difficult—or to go to the Office of the Worker Adviser, which has criteria and has budgetary constraints. But certainly, in the initial stages of a claim, they're not going to have the expertise that they need to have in order to carry a claim or an appeal forward. There are time limits involved. There are forms to be filled out. If your first language is not English or French, they're not going to be able to deal with that. There are two sets now. There used to be one set of forms; now there are two sets of forms that have to be filled out before you can get in, get your appeal launched and get in the queue waiting for a scheduled date when your appeal will be heard. You have to do written submissions in order to convince them to actually have a hearing into your appeal. I don't know what a written hearing is, but apparently that's something that was put in in 1997 into the act: that hearings could be written. Now it's a written hearing. But in order for someone who's unrepresented to deal with a written hearing—it's a Herculean task, an enormous task, to try to get that done. Workers who are not represented, I think, are going to be much more vulnerable, under the proposed changes, to the appeals process.

**Miss Monique Taylor:** Thank you. How much time do I have, Chair, before you cut me off?

**The Acting Chair (Mr. Shafiq Qaadri):** About four minutes.

**Miss Monique Taylor:** Thanks.

**Mr. Bryan Neath:** Can I just add—

**Miss Monique Taylor:** Oh, sure; go ahead.

**Mr. Bryan Neath:** I'd just like to add to that. The other thing that has happened in the last while—I'm not sure exactly what the time frame is—is that the employers, especially the big employers, now have hired claims managers who manage all these claims and are dealing with the board on behalf of that employer. If you can imagine an employee working in Walmart who has no representation—it's hard to get representation—and then goes up against a claims manager to fight all of that, where do they go? First of all, they're not making enough money to hire anybody, as Eric indicated. That's an additional piece that's happening that's troublesome for us as a union, because we are meeting up with those claims adjusters as well, and it's a tough time right now for that.

**Miss Monique Taylor:** Absolutely. Thank you.

**The Acting Chair (Mr. Shafiq Qaadri):** Please, Mr. Natyshak.

**Mr. Taras Natyshak:** I'm going to waver from my line of questioning here, and I'm going to ask you to paint a picture and pose a scenario. I'm going to give you the scenario. Members of provincial Parliament—we're all at work here right now. We're working, you're working, and folks in the gallery are working as well—many of them. I'd like you to assume that one of us, as



members of provincial Parliament, is injured here at Queen's Park. This is a bubble. There aren't the same hazards in this building as I experienced on construction sites prior to being elected. But there are big stairways. Imagine that we are injured on this job. Tell us how, in the light of a migrant worker, someone who's unrepresented—tell us the challenges that we'd be faced with, as members of provincial Parliament, to get back to work.

1010

**Mr. Bryan Neath:** I guess it might depend on who the employer is.

**Mr. Taras Natyshak:** The employer is the people of the province of Ontario.

**Mr. Bryan Neath:** Let's face it: The employers play a huge role in all of this as well. Simply, if all the forms are done correctly—if I was to say that, because employers are not good at that. So if, first of all, you make a claim and the form—7, 6, whatever the form number is—isn't there, you're in trouble.

**Mr. Taras Natyshak:** Form 7, yes.

**Mr. Bryan Neath:** You're already in trouble. So the first part is your employer: How are they going to be? The difference, obviously, here, amongst probably everybody in here, is that we have knowledge of the system.

To your question about a migrant farm worker, as we pointed out, first of all, half the time they don't speak the language and have no knowledge of the system whatsoever. Secondly, they don't really know where to go to get that particular help. Here, at least, you would make your claim, you would follow a process, you will likely be denied the claim, and then you'll likely have to appeal. Unless it's potentially a very obvious problem such as falling down and breaking your leg—

**Mr. Taras Natyshak:** If they were to make some provisions for us to return to work, we would assume that if we had mobility issues, they'd make provisions for that here at Queen's Park, ensuring that we access to elevators. Is that what other folks can expect out in the workplace? You've got 10 seconds left, by my clock.

**Ms. Sherree Backus:** No, because—I'm sorry, in your scenario, for a lot of our workers, we have a long way to go before we establish a claim. If there's no visible wound, like a bone sticking out of your leg, let's say—

**The Acting Chair (Mr. Shafiq Qaadri):** I apologize, Ms. Backus, for interrupting you serially. I would thank Mr. Natyshak for his questions. I assumed that your issue of injuring an MPP is hypothetical, but in any case I'd thank the United Food and Commercial Workers Canada for your deputation.

#### ONTARIO PROFESSIONAL FIRE FIGHTERS ASSOCIATION

**The Acting Chair (Mr. Shafiq Qaadri):** I'd now invite our next presenters to please come forward, representing the Ontario Professional Fire Fighters Association.

Welcome, gentlemen. I know you know the drill very explicitly. I'd invite you to please begin now.

*Interjections.*

**The Acting Chair (Mr. Shafiq Qaadri):** The floor is now with the Ontario Professional Fire Fighters Association.

**Mr. Jim Holmes:** Good morning. President McKinnon sends his regrets. My name is Jim Holmes and I'm the executive vice-president of the Ontario Professional Fire Fighters Association. I am also a fire captain in London. With me today are Mr. Paul Atkinson, chair of our occupational disease committee, and Mr. Chris Wheeler, chair of our WSIB committee. Mr. Atkinson is a firefighter in Toronto and Mr. Wheeler is a firefighter in St. Catharines.

The Ontario Professional Fire Fighters Association represents approximately 11,200 professional full-time firefighters across Ontario. Our members provide emergency response, training, prevention, inspection, public education, fire investigation, emergency communications and maintenance for much of Ontario's fire services.

Our members are represented through 80 locals—77 municipal, two airport and one industrial—who are chartered through the International Association of Fire Fighters. Relying upon the most recent Census Canada data from 2011, our 77 municipal locals respond to the needs of approximately 81% of Ontario's total population.

Members of the OPFFA sit on several standing committees. Two of these committees focus on the issues contained in the review of the WSIB: our WSIB committee and our occupational disease committee. As an organization, the OPFFA takes seriously its commitment to promoting the health, safety and well-being of our members.

I'll now turn it over to Mr. Atkinson and Mr. Wheeler.

**Mr. Paul Atkinson:** Good morning. It is indeed a privilege to address this committee today. I sincerely enjoy the opportunity to address our elected officials. Thank you for making our province a great place to live and to raise our families.

Firefighters are very concerned with occupational disease. The OPFFA is proud to participate with the WSIB as it continues a review of illness and disease from workplace exposures. WSIB continues a methodical review of illness and workplace-related diseases which is, from our perspective, a transparent process and allows for input into that process from the firefighter's point of view.

The OPFFA has worked for over a dozen years to streamline the process with the Workplace Safety and Insurance Board to ensure that our members receive benefits in a timely manner and, when necessary, receive the assistance they require. Furthermore, in the event of the death of one of our members, working with the WSIB, we can strive to have the appropriate benefits flow to the surviving family seamlessly in their time of need.

We are currently working with the WSIB to resolve several illness-related issues that have been identified over the past period of time. The science surrounding oc-



cupational disease is an ever-evolving process. We have found the WSIB to be very responsive to the occupational disease issues that we have raised as an organization. To that end, we look forward to continuing to work with the WSIB to resolve these complex illness issues as they arise. By being proactive, our sense is that we will assist the WSIB and our government in anticipating the costs associated with these illnesses so that they will not become part of an unfunded liability for future generations.

As well, firefighters have worked on a prevention strategy, hand in hand with the WSIB, to reduce the incidence of our members contracting occupational disease. We are confident in stating that our Mask Up! poster campaign and video would not have been as successful without the WSIB's input and assistance. The video, which involves real firefighters suffering an occupational disease, is available to every fire department in this province as part of their ongoing occupational disease prevention training program.

With respect to our policy review, we, as labour, recognize that for the WSIB system to operate in the best interests of all, the system must function for the worker, the employer and the WSIB. To have the WSIB system function effectively, there needs to be a review mechanism to address policy concerns as they develop, not after the policy has been instituted and, in some cases, become ineffective.

The firefighters advocate that the current issue surrounding the calculation of monthly spousal benefits of retired workers is an example of the need for a responsive review mechanism. The OPFFA believes and advocates that the calculation method can be addressed reasonably and fairly by utilizing our current legislation and reorganization of existing policy. We are currently in discussions with WSIB staff and Ministry of Labour officials to ensure that the aforementioned policy is reviewed in a manner that will see the calculation of spousal survivor benefits in a fair and balanced way.

Proactive policy development that involves stakeholders from the beginning will ensure that future policy development does not inadvertently negatively impact workers.

I'll turn it now over to Chris.

**Mr. Chris Wheeler:** Thank you for allowing us the opportunity to speak to you today.

The chair of the WSIB has suggested that one of the challenges facing the board is the growing costs of claims, particularly around occupational disease. Firefighters are working toward an early detection and awareness program that will identify and reduce the overall devastating effects of occupational disease. This, in turn, will reduce the costs associated with occupational disease for the board. Senior staff at the WSIB are fully aware and supportive of these programs and continue to offer support in the development of further initiatives to achieve these goals.

The OPFFA looks forward to working with the new Chief Prevention Officer to continue and enhance our

prevention initiatives for the firefighters in the province of Ontario.

The OPFFA will continue to participate in the appeals review process. We appreciate the volume of work that senior staff at the WSIB have already put into the appeals system review. We are fully confident that the concerns of the OPFFA, such as access to files in a timely manner, will be addressed in the ongoing transparent review process.

While we do have concerns with some of the proposed changes to the appeals process, we are confident that if the review process welcomes and values input from all stakeholders, there is an opportunity to, in the end, improve the appeals system in a positive manner.

I will now turn it over to Jim.

1020

**Mr. Jim Holmes:** In closing, from the inception of our compensation system there have always been challenges to be dealt with. Workers' compensation was born from a need to protect injured workers and promote a safer workplace. It is our belief that the WSIB, if working with all stakeholders, will continue to move forward in addressing issues proactively rather than reactively.

The OPFFA has in the past 15 years worked cooperatively with the WSIB and the Ministry of Labour to ensure that the WSIB system works for all parties. We look forward to addressing today's challenges and pledge a commitment to work with the WSIB and the government to ensure that our workers' compensation system remains cost-effective for employers while providing fair compensation to injured and sick workers in a timely manner.

On behalf of the OPFFA, we thank the committee for their time today and look forward to entertaining any questions you may have.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, gentlemen. To the PC caucus. Mr. McDonell.

**Mr. Jim McDonell:** Thank you for coming today. It's good to hear your perspective.

I'm just stepping back to a higher level here and trying to think of a fair compensation system. As an example, if somebody is walking in through a gate at their employment and on the outside of the gate they trip and fall, they're on their own hook. Step through the gate, and all of a sudden it's the employer's fault. What's fair? Most accidents are probably, whether they're at home or at work, something that's an issue. We seem to treat people differently. If people get hurt on their own time, they're fighting through the system. Many of their problems are because there are benefits given to people that get hurt at work because there's a rush to get them through the system to get them off benefits.

In a lot of ways, does that seem fair? Does it seem fair that you're treated differently? There are no extra premiums. If you're on the private system, you work for yourself; you have to take insurance out to cover your income. But if you're working through a WSIB system, your employer is obliged to do that. You have no respon-



sibility to do that. Looking at it, is it a system that we can work with or something we should change slightly? It just seems to be that it's setting up groups of people that are treated differently. Any answer?

**Mr. Paul Atkinson:** I believe that we advocate, as firefighters, to work in the safest manner possible to reduce and eliminate injuries from happening in the first place. By reducing, through health and safety programs, those injuries, we really treat everybody consistently fairly, whether they're hurt on work or—sorry; if they don't have accidents away from work and they don't have accidents at work, they would be treated fairly.

That being said, we believe that the system is a good system. As you say, it needs some tweaking here and there. It has needed tweaking since 1914. It is always an ever-evolving system. As with all of our laws in our province, we need to take them out and exercise them, and this is a law that we need to bring out and exercise. It is, I believe, an affordable insurance program for employers to be involved in that removes the need for litigation and the suing of an employer for benefits. I think that with universal coverage, if we had every worker covered in the province of Ontario, while there would be more liability by bringing those people under that umbrella, everybody would be consistently fairly treated.

Firefighters are very aggressive in their return-to-work programs. We have looked at the reports and the science and we know that the longer somebody stays away from work, the less likely we are to ever get them back to work. We've worked really hard with the Workplace Safety Insurance Board on some of the most complex claims, such as post-traumatic stress disorder. We can actually report to you that we're getting our members returned with post-traumatic stress to the workplace because we're working effectively to get early interventions that may not be there otherwise in a private insurance system.

**The Acting Chair (Mr. Shafiq Qaadri):** Mr. Pettapiece.

**Mr. Randy Pettapiece:** I'm looking under the section on policy review that you gave here. In the second paragraph, "The firefighters advocate that the current issue surrounding the calculation of monthly spousal benefits of retired workers is an example of the need for a responsive review mechanism." What are you talking about there? I don't understand that.

**Mr. Paul Atkinson:** The calculation of the monthly spousal benefits involves retired workers. Many of our firefighters and many of our workers in this province become sick after they leave the work that made them sick, that exposed them to toxins in the course of their employment. When a retired worker becomes ill, the words in the act currently state that "where a worker has a loss of earnings." For retired individuals, there is no loss of earnings, so the employer groups are advocating that where there is no loss of earnings, the net average earnings should be calculated at zero. The firefighters are not currently fighting back on the loss of earnings. This is the

law of our land, and the language is clear: Where there is a loss of earnings, the WSIB will pay for it; where there is no loss of earnings, there is no payment of loss of earnings.

The problem becomes when one of those people passes away from that job cancer. The employer groups advocate that because there was no loss of earnings, the net average earnings should be set at zero. We're suggesting to the WSIB that under the current policies that were created in 1998, they missed out on the concept of total disability. They were going under that concept of total disability which was in the pre-1998 acts. As such, when they transitioned into the new concept, which is a loss of earnings, they mistakenly put a piece of the calculation for net average earnings in the loss-of-earnings policy. Because a worker has no loss of earnings, that policy is no longer valid. We're suggesting removing that section from that particular policy and placing it into the calculation of the net average earnings for long-term illnesses.

**Mr. Randy Pettapiece:** I'm still confused.

**Mr. Paul Atkinson:** It is an issue that we've been spending probably four or five years on.

**Mr. Randy Pettapiece:** I think what you said was that if one of the spouses dies, say a firefighter passes away—is the one who is left supposed to get some benefits out of the WSIB?

**Mr. Paul Atkinson:** The surviving spouse is entitled to benefits under our current legislation, yes.

**Mr. Randy Pettapiece:** Oh. Is that common throughout Ontario society, that the spouse would get these benefits?

**Mr. Paul Atkinson:** In society generally?

**Mr. Randy Pettapiece:** I mean, just general society. If I've paid workers' comp all my life and I pass away, does my wife get the benefits?

**Mr. Paul Atkinson:** No. What we're talking about is when the Workplace Safety and Insurance Board makes a determination that a worker has died due to a traumatic injury while at work, in the course of their employment, or if they make a determination that an occupational disease was related to an exposure or a process in their employment period of time.

**Mr. Randy Pettapiece:** I can understand that part of it. That's fine. But usually an insurance policy ends when you pass away.

**Mr. Paul Atkinson:** The Workplace Safety and Insurance Board—

**Mr. Randy Pettapiece:** The insurance policy ends if I pass away, but the benefits really aren't passed on to my spouse. Is that correct, usually, except in this case?

**Mr. Paul Atkinson:** If you had a private life insurance policy that was payable upon your passing, then your spouse would receive benefits.

**Mr. Randy Pettapiece:** Oh, for sure. But what you're asking for is the WSIB benefits to continue to the spouse who wasn't the firefighter.

**Mr. Paul Atkinson:** That is the current legislation and has been the legislation since 1914, where there are sur-



vivor allowances for people who go to work and unfortunately die in that work environment.

**Mr. Randy Pettapiece:** So what's going on is, they want to change that legislation. That's what you're saying.

**Mr. Paul Atkinson:** No, it is just the way that the benefits are calculated. It's simply the calculation of those benefits: how much is paid out.

**Mr. Randy Pettapiece:** Interesting. Thank you.

**The Acting Chair (Mr. Shafiq Qaadri):** We go now to the NDP. Miss Taylor.

**Miss Monique Taylor:** Thank you very much for being here today and—

*Interjection.*

**The Acting Chair (Mr. Shafiq Qaadri):** Sorry, I need to intervene. The PCs still have two minutes. Ms. McKenna.

**Mrs. Jane McKenna:** I'm saying "wow" myself, because I want you to negotiate for me.

Do you feel you're part of the problem of the unfunded liability?

**Mr. Paul Atkinson:** I don't think that we're part of the problem. I think that the awareness and the claims that we've advocated for over the last 12 years have certainly piled into the system unexpectedly—maybe not unexpectedly, but not funded for, not currently anticipated as they were going through.

The scope of the firefighters' experience is not too different than many of the mining experiences from the 1960s and 1970s, where somebody knew at some point that these things weren't good for you and exposed our workers in this province.

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I do know that in the example of lung cancer, as an example, there are class actions and lawsuits in the States that the Workplace Safety and Insurance Board is able to recover funds from, from places like Holmes Foundry and whatnot. I know that the WSIB, when they pay out benefits to a family, turn right around and go right to that class action and make a claim under that class action and receive benefits back for that.

That's not something that we want to put our firefighters or our workers in this province in the position of having to do, where you have to get part of a class action lawsuit that will pay out years and years and decades later. We need to look after our workers here and now. Myself and Colin Grieve with the provincial association have worked really hard to make sure that when a member gets sick, they get the benefits from the Workplace Safety and Insurance—

**The Acting Chair (Mr. Shafiq Qaadri):** I thank the PC caucus. Now the floor returns to the NDP. Ms. Taylor.

**Miss Monique Taylor:** He's tough.

Thank you, Chair, and thank you again for being here today. Thank you for bringing this portion to the table, because occupational disease is something huge and definitely needs to be addressed on many different levels.

I like the way the firefighters are so proactive in making sure that every worker stays safe, with the videos and everything, that you're making sure your workers are staying safe—right?—and nobody is at risk of inhaling stuff that they're not supposed to. I don't think there are many organizations that work as closely with the WSIB, probably, as you do, by the sounds of it. I think that you should be a champion of that and of it being more proactive, that the WSIB should work closer with employers to make sure they have that same kind of relationship that you are dealing with, in whatever form that could be. I'm sure there are many different jobs happening out there where they're not getting that video of Mask Up! and they're not as proactive on those things. We really could cut back on the occupational disease if things like this were definitely more proactive. So congratulations for that.

I don't know how many questions I actually have. I just really wanted to make those comments about the prevention and that kind of stuff, because I really do think that's important and I think many people and employers should be looking at you as the lead on what a great job you are doing with that. Taras?

**The Acting Chair (Mr. Shafiq Qaadri):** Mr. Natyshak.

**Mr. Taras Natyshak:** I just want to touch on a couple of things that we've heard. It was stated earlier that the delineation between if a worker is on public property, trips and falls, it's no one's fault, but as soon as they enter into a workplace, it's the employer's fault—that premise is contrary to the actual premise of our compensation system. It is a no-fault system. I want you to just validate that that is your understanding of the system as it is as well.

**Mr. Paul Atkinson:** The Workplace Safety and Insurance Board is a no-fault system, meaning that there might be fines under a Ministry of Labour inspection, but the WSIB does not say that the worker was at fault or the employer was at fault and pay more benefits or less benefits—

**Mr. Taras Natyshak:** Therefore I wouldn't have the right to sue under any type of tort law.

**Mr. Paul Atkinson:** There are very narrow margins on which a worker can sue under the Workplace Safety and Insurance Board, one of which is if there's third party liability vis-à-vis an automobile accident in the course of employment.

**Mr. Taras Natyshak:** Very good. Thank you. I just wanted to clarify that.

Secondly, in terms of survivor benefits, it was also mentioned that you had negotiated those survivor benefits, and I want to clarify that your association has not negotiated those benefits for yourself.

**Mr. Paul Atkinson:** That, we cannot take credit for. Those are currently under the Workplace Safety and Insurance Act. They are legislated from this government.

**Mr. Taras Natyshak:** Although it's not a novel idea, I think the concept is appropriate.



I want you to expand on that as well: the need that has arisen for survivor benefits. Ultimately, my understanding is that it comes out of the fact that a worker was injured on the job because they went to work, or became ill through some sort of an occupational disease that they incurred as a result of their line of work, through exposure or sudden injury. I want you to tell me why it's so important to extend those benefits to survivors in that scenario.

**Mr. Paul Atkinson:** Firefighters do not make a differentiation between a traumatic death and an occupational disease death. It is treated in an identical way, in that we have line-of-duty death status. We've got a memorial just south of this building here, where firefighters' names are engraved on that wall.

**Mr. Taras Natyshak:** I pass it every day on my way to work.

**Mr. Paul Atkinson:** Thank you. For us, we make sure that the people who die from these cancers, who really are no different from that one who came to work and fell out of a window, or one that fell through a floor and died instantly and traumatically, or had a heart attack, as Bob Leek did in the Sunrise Propane explosion several years back—because these firefighters and our workers in this province go to work and are slowly, toxically poisoned every single day that they're there, unknowingly and unfortunately. By recognizing these as just as traumatic as the people who die instantaneously, it puts an onus back on the employers to make their workplaces safer.

I can say to you that firefighters have worked diligently over the past 20 years to make their breathing apparatus more contained, so that they don't get the toxic flow into their faces and into their lungs. We're working better on hygiene practices to make sure that our firefighters—for example, here in Toronto, when a fire occurs, the trucks go back to the station. They're actually taken out of service for a period of time, after they've reloaded that truck with the hose and the water, to cleanse themselves, to go in and shower and scrub all of the toxins off, to change their clothes. We have two sets of bunker gear for every single firefighter so that that dirty, toxic gear isn't placed back onto their body, continuing those exposures. Those things are taken out and washed immediately. It's no longer a badge of courage to walk around in dirty, filthy gear.

We've worked really hard over the last 20 years to make better safe-work practices, and our employers, I think, by and large, understand the need for that, because they're losing valuable resources. When a worker gets sick at 35 years old and dies at 37 years old, places like the city of Brampton lose valuable resources, and this affects all of us. The same as in any workforce: You hire these people, you train these people, you spend a lot of time getting to the level they get to to provide a service for that employer, and now they're no longer able to provide that. Then there are other benefits that kick in, and there are costs associated with that. In all reality, we don't want the cost to flow to the family. We don't want that money to go there. We don't want the employers to

bear the burden. We'd rather have our workers safe and healthy.

**Mr. Taras Natyshak:** Hear, hear. Thank you for that.

The proactive work that you've done as an association, as professionals: I think that the lessons learned from your work and the job that you do can be transferred into other industries quite seamlessly, even the fact that it's no longer a badge of courage. As a construction worker, I was exposed to many different elements—*asbestos, silica dust*—things that are rough and tough in the industry but should be mitigated at all costs.

Thank you for the work that you do on behalf of our communities. I can't tell you how revered you are, certainly in my small community of Essex county. I've got two little kids at home who look up to you as well, so it's really something that conjures up the best of what we can be as a public service.

I want to just quickly touch—you've got a minute and 40 seconds left—on the challenges of receiving benefits when exposed to PTSDs. How's that going? Do you face any challenges on an ongoing basis, and where are we heading?

**Mr. Paul Atkinson:** Post-traumatic stress is a huge problem for the firefighter and emergency services, the police and ambulance personnel. Many are seeing things that really should never be seen by anybody, but it is things that are being exposed. We've worked really well with the WSIB to demonstrate our problem, to the point that we have streamlined the process so that when one of our members comes forward claiming post-traumatic stress, they're immediately referred to CAMH for an assessment. In the past, it was six months, a year or a year and a half waiting for medical notes while these people were percolating away, getting worse and worse with their symptoms. The sooner the intervention on post-traumatic stress, the higher the odds of returning that person to work are. We've gotten really good with the WSIB to at least get the people in the stream that they need to be in, that mental health stream, so that they're getting the treatment that they need and the support that they need.

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As I say, it wasn't too many years ago that they would never come back to work. It wasn't even contemplated. We're actually returning our members to modified duty, supporting them, bringing them back into the fold and assisting them through this process. In the same breath, we are working with our employers to have better EAP programs, better counselling available immediately.

I know that the police and the ambulance are right on board with doing these things to prevent these becoming—

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Natyshak, for your remarks and your timing assistance.

I'd also like to thank the members of the Ontario Professional Fire Fighters Association for your deputation—

**Mrs. Donna H. Cansfield:** Hello.



**The Acting Chair (Mr. Shafiq Qaadri):** Oh, I'm sorry, gentlemen. You still have 10 minutes.

Liberal side: Ms. Cansfield.

**Mrs. Donna H. Cansfield:** He's too efficient.

Thank you very much for coming and for your presentation.

One of the challenges that you've identified is the issue around prevention and keeping your firefighters as safe as possible. That comes with extensive training. I think the literature would tell you that virtually 98% of all events that occur are preventable. Unfortunately, we call them accidents, so that sort of gives us, "Well, it's fate. It's going to happen anyway." They are not accidents; they are preventable. Your approach is commendable, and I think you've proven that in terms of your track record.

Now you're dealing with the whole occupational disease issue, and I think a lot of us are going to be benefiting from that in other sectors as well, so I thank you for that.

One of the things you've identified is the issue around—well, there were a couple of things: occupational disease, and we talked about the spousal benefits—the appeals process and the review process. I'd be interested in where you see some of the challenges and where you see some of the opportunities. You did say that if we all worked together, we would improve the appeals system. Can you identify some of those challenges as you see them?

**Mr. Paul Atkinson:** I think one of the challenges with the appeals is actually having a clearing house for those appeals. Currently, when you do your appeal forms, they go into a multitude of branches and areas within the Workplace Safety and Insurance Board and tend to not make it to the place that they're supposed to, which adds time into the system. The senior management of the board is proposing this central clearing house so that we know where all of the appeals are going.

What they're doing is not too dissimilar to what was done at the Workplace Safety and Insurance Appeals Tribunal at 505 University. They have an agency that takes the appeal in, they process it, and get it case-ready, hearing-ready. Then, when you have your hearing date, everything is in place and ready to go: We have all the up-to-date medical—there's nothing more frustrating than getting to a hearing to find out that one party didn't get all of the medical or that there are big pieces of the file missing or that the appeals officer didn't have this or didn't have that. That happens, and it's wasted time for everybody. It's wasted time for the employer, for the advocate as well as the worker and the system, generally speaking.

While there are some issues surrounding file access, expediency, getting that out, these are things that I think that as we go through the summer and submissions are made to senior staff on where the employers see this going, where the workers see this going—I think that some of the better ideas from the more experienced advocates

on both sides can really fix the problems, or problems as they're perceived.

As far as the downside risk, that has always been there. That has always been an aspect of the appeals system. When you open up an appeal, they can come back and review just about anything. As firefighters, what we try to do and what we train our advocates to do is to pre-screen your hearings before you even enter into that system. We're not just taking needless appeals on a wing and a prayer—that hopefully somebody won't be smart enough to figure out that this isn't going through. If we take something to an appeal, we're pretty sure that we're going to win, in whole or in part, that appeal.

**Mrs. Donna H. Cansfield:** When you're a large organization, obviously you have the advocacy, and it's easier than if you were a very small employer or an individual, for example, and you didn't have access to that advocacy that you have. In your discussions with the WSIB on this whole issue, will you raise that on behalf of all of us as well? Because it's something we certainly have heard.

I really liked your approach: the idea that if you can find a way to work together—all stakeholders—you can move forward in addressing the issues. What would you consider to be an optimum way of doing that? I presume there are regular ongoing stakeholder conversations, but is there a better format to do this?

**Mr. Paul Atkinson:** What we did with the Mask Up! campaign was, we had a small working committee. If you ask the senior staff at the WSIB, if you ask the adjudicators, they can tell you about good employers versus bad employers and they can tell you about good worker advocates versus bad advocates. By bringing the best people to the table, you can solve the problems fairly quickly and expeditiously. As we worked on the Mask Up! video, we selected Pat Burke, and from London, your chief—we selected people that we knew that were coming to the table that had the best interests of everybody to solve the problems.

The solution never lies on one side or the other; it always is somewhere in the middle. It's the WSIB's role to bring the best people to the table to find that common middle ground that ends up with a solution that works for everyone. The system broken doesn't work for anyone. High premiums are no good for the employers because it chases business away from our province. We need these jobs; we need the work; we need to encourage business to come to this province to work and to employ our people. We need good coverage for our workers so that they're not placed in a position of poverty or homelessness as a result of a workplace injury.

If the WSIB acts as a mediator to bring these people together, I think that we can solve a lot of the problems fairly quickly.

**Mrs. Donna H. Cansfield:** In fact, we've had a lot of policy discussion by many of the deputants, and we're actually just doing an overview of the WSIB. You've identified that you've worked with them in a number of areas and been very successful. Could you find other



areas where you think there could be improvements within the WSIB in terms of that relationship?

**Mr. Paul Atkinson:** In terms of the relationship, I think that we operate on the premise that it's worth getting together over a cup of coffee to discuss. That was Jane McCarthy that placed that on us, probably 12 years ago. Myself and Colin Grieve are always at the compensation board. You know you're downtown too much when people are saying hello to you on the street on Front Street. John Slinger: We've met with him, on a chance occasion, just to talk about a few things, just to discuss a few ideas that emanate into a meeting that bring more people into the process.

It's a matter of putting a face to things and really being involved, concerned and caring about the system and about your workers, too. We become intimately involved with these people that go through the cancers, even through physical injury. It's not something that you ever wish on anybody. I can thankfully say I've never been injured in the course of my employment, with the exception of one rock when I was really young and stupid. When we meet with our recruits, when we go and talk to them, I don't call it an accident; it's a preventable occurrence. This is what they know. It is a preventable occurrence, because if they can figure out how the space shuttle blows up, I can figure out how they tripped over a fire hose at 3 in the morning.

**Mrs. Donna H. Cansfield:** I couldn't agree with you more. As I said, I chaired the SmartRisk foundation, which is injury prevention, and we did a lot of work on just getting that word "accident" out of people's vocabulary. Unfortunately, it has slipped back in again. But if you stop thinking about it as an accident and as fate, and it's preventable, then everybody bears a responsibility.

You're saying, sir, there's an informal approach towards the formal, and I suspect that could be said for all of the potential stakeholders that would have some opportunity for conversations. Would that be your advice, to build those relationships?

**Mr. Paul Atkinson:** My advice is, it is all about relation-building, relationships with the people. Our adjudicators at the WSIB are people too. They have good days; they have bad days. You have to treat them nicely. The senior staff: They're people. They have good days; they have bad days. You have to treat them nicely. It's just a matter of advocating your position. You're not always going to agree, but you can agree to disagree and move things on to different venues as they are required.

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But really, it's that relationship-building that allows you to present your points in a calm and cool fashion so that they can understand where you're coming from and they can also understand where the employers are coming from. I think, in a nutshell, it's the relationship-building that needs to occur with these people at the compensation board, because I've never met anyone at the compensation board who isn't willing to solve a problem. They're always willing to talk.

**Mrs. Donna H. Cansfield:** Thank you. Now, on the occupational disease file, you indicated that you had been working with them. Have you found that to be a productive process?

**Mr. Paul Atkinson:** Extremely productive. When we started in 1998 with our brain cancer and lymphatic cancer policy, through the years that followed, we were able to demonstrate—we were bringing our science to the WSIB for review. They said, "If this is going to be solved at the tribunal in 12 years, why aren't we solving this now? Show us what you've got." So that started that process of bringing everything to the point where we continue to see things—as I say, science is an ever-evolving aspect of our lives. People are being studied all the time. Science reviews are coming out, and they're showing things or showing stronger indications, and we present that to the compensation board and say, "What about this?" or "What about that?"—

**The Acting Chair (Mr. Shafiq Qaadri):** I need to intervene there. Thanks to the Liberal side and thanks to you, gentlemen, on behalf of the Ontario Professional Fire Fighters Association.

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ONTARIO HOME  
BUILDERS' ASSOCIATION

**The Acting Chair (Mr. Shafiq Qaadri):** I'd now invite our next presenter, who comes to us via teleconference from St. Thomas: Doug Tarry, co-owner and director of marketing of Doug Tarry. Are you there, Mr. Tarry?

**Mr. Doug Tarry:** Yes, I am.

**The Acting Chair (Mr. Shafiq Qaadri):** Great. You have 10 minutes in which to make your opening remarks, followed by 30 minutes divided evenly amongst the parties. I invite you to please begin now.

**Mr. Doug Tarry:** Okay. Thank you for having me. I want to just give full disclosure that I'm also the president of the Ontario Home Builders' Association, and I will be making my opening remarks based on—

**The Acting Chair (Mr. Shafiq Qaadri):** Just a moment, Mr. Tarry. I need to adjust the volume. Can we do something? Perhaps you might do something on your end as well.

**Mr. Doug Tarry:** Down?

**The Acting Chair (Mr. Shafiq Qaadri):** Yes, that's a little bit better. Go ahead, please.

**Mr. Doug Tarry:** Is that better?

**The Acting Chair (Mr. Shafiq Qaadri):** Yes.

**Mr. Doug Tarry:** Okay. I am also the president of the Ontario Home Builders' Association. I will be making my initial opening remarks in that regard as well.

I want to thank you for inviting me to speak to you today about the WSIB. The WSIB is an integral part of Ontario's labour market regime and its long-term viability, as the province's no-fault insurer is important to our industry.



The Ontario Home Builders' Association is the voice of the residential construction and professional renovations industry across Ontario. Our association includes 4,000 member companies, organized into 29 local associations across the province. The residential construction industry is the largest industry in the province, supporting over 325,000 jobs here in Ontario, paying some \$17.1 billion in wages and contributing up to \$39 billion in the provincial economy. In 2011, the home building rate group, 764, was billed \$149 million.

On behalf of the Ontario Home Builders' Association, I want to thank the past WSIB chair, Steve Mahoney, for his hard work in this important file. We always appreciated his open and transparent leadership style. Mr. Mahoney always made himself available to speak to our members, whether it was at a large conference or throughout our network of local associations. I had the pleasure, actually, of personally speaking to Mr. Mahoney on a couple of occasions.

The WSIB plays an important role in our industry, and I will be addressing three main themes as they relate to our broader home building industry, as well as my company, based out of St. Thomas, Ontario.

First, I will discuss funding the system, which remains the most important challenge for the government and the board to address, as the current unfunded liability reaches over \$14 billion.

Second, I will discuss education and prevention and why the WSIB as well as other related government ministries, such as the Ministry of Labour and the Chief Prevention Officer, need to be more active in improving health and safety practices instead of merely handing out tickets for infractions.

Third, I want to touch on our association's opposition to mandatory WSIB coverage for independent operators and executive officers in construction, and I'll go into detail on that one.

Funding the system remains a key theme recently, with the Professor Arthurs report released only a couple of months back. We participated in those consultations and continue to be concerned with how the liability will impact future premium rates. We believe that the current premium rate regime is already—

**The Acting Chair (Mrs. Laura Albanese):** Mr. Tarry, sorry to interrupt you. Could we ask you kindly to speak up a little bit and perhaps a little slower, because we're having difficulty following you.

**Mr. Doug Tarry:** I'm sorry. I thought I was told to turn my speaker down here. Is it not loud enough?

**The Acting Chair (Mrs. Laura Albanese):** Yes, now you are. If perhaps you could speak just a tiny bit slower.

**Mr. Doug Tarry:** I'll try and relax for you. I'm used to doing this in person, you see, so it's a little bit odd doing it this way, but I do appreciate the opportunity to talk. Anyway, I'll try and relax a bit, okay?

Funding the system remains a key theme. Recently, with the Professor Arthurs report released only a couple of months back, OHBA participated in these consultations, and we continue to be concerned with how the

liability will impact on future premium rates. We believe that the current premium rate regime is already at very high levels and any adjustment higher is going to act as a deterrent to the hiring of more workers. This concept was confirmed in the 2009 Auditor General's report, which stated that Ontario's average premium rate is already amongst the highest in Canada. It is within this context that home building and renovation companies continue to believe that they are not receiving the appropriate value for the cost of the WSIB. OHBA recognizes the legislative obligations, such as the many worker benefits that the board has that fall outside of jurisdiction at the WSIB, and that significant cost savings cannot come from administrative cuts alone.

With that said, the WSIB cannot continue to tap into the premium rate structure to deal with this problem. If the government is serious about tackling the unfunded liability, then both the province and the WSIB needs to look at benefit structures that are in place. When WSIB premiums are increased, it imposes a direct cost to employ additional workers. This cost is already higher than in a number of other provinces, making Ontario less competitive and less attractive for businesses to invest in.

From my perspective—and I'm going to go on an aside here—it also makes it so that our housing is more unaffordable to consumers. Specifically, it is unfair to certain builder groups because of the way their corporate structure is. I will come back to that.

One positive signal from the Harry Arthurs report was a recommendation for rate group consolidation. Recommendation 5-1.1 states that, "The existing system of rate groups and industry classes should be replaced by a new system of 'sectoral groups.'" While OHBA understands that there will be winners and losers in the construction sector if this occurs, we believe it harmonizes with best practices in other provinces and eliminates issues associated with a large number of rate groups such as the problem of rate group shopping.

The second theme is education and prevention. Unfortunately for many small businesses across Ontario, there is a fear of reprisal when they come forward to WSIB, IHSA or the Ministry of Labour with a question about health and safety. We believe that this is not a healthy culture for businesses to operate in. The best method to deal with safety challenges is changing the culture of safety through education. This explains why incentive programs such as safety groups are such positive initiatives to have in place. Employers need to have confidence and trust in the system if we are to see large improvements.

The third theme is Bill 119, or mandatory WSIB coverage for independent operators and executive officers. Although the Ministry of Labour and WSIB explained that this policy change was done to level the playing field and improve health and safety in Ontario, our association believes that this is a cash grab that will increase the size of the underground economy, again making housing less affordable. In part because of mandatory coverage, it is increasingly difficult for home



builders and renovators, especially renovators, to see any value for money with the WSIB. Our members already cover private insurance that will cover them 24 hours a day, seven days a week. If the WSIB does not replace this insurance, instead I will be forced to continue to carry private insurance to cover me when I'm not working.

The impact to our sector from this legislation is significant. The Auditor General estimates that the government will receive \$72 million more annually because of this legislation. While OHBA maintains a positive working relationship with the WSIB throughout this process and appreciates being able to provide input, we believe that the path towards mandatory coverage in construction will ultimately be detrimental to our industry and will increase the cash underground economy.

That's basically the gist from the OHBA standpoint. We hope for and look forward to the opportunity to make a larger presentation with actually having staff available to answer the questions in greater detail, because they certainly know some of these files better than I do.

I would like to take a moment to speak briefly, though, if I may, about some of the situations that I'm concerned about, the first of which is the fact that—I'm going to give my company as a very specific example in a couple of cases. I have a board of four siblings. Right now, as I understand it, we're going to have one sibling that would be exempt as being not on the tools and me not paying the coverage. Let's say that that's my sister Kathy. She has never seen our job sites. I think that's probably a good one to say that that makes sense on. Secondly, I've got my brother Greg. He suffered a stroke a year ago. He has to be driven around. He's actually the land developer, so he actually never really even gets out of his truck, but I'm going to have to pay, as I understand it, about \$7,250 per year in WSIB coverage for him, even though he has to have separate health insurance.

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Then there's my brother Bill, who is occasionally on the job site. Maybe 20% of his time is on the tools. We would have to be covering him for the full amount as well, even though he's actually in a supervisory role.

Lastly, there's myself. I'm actually the conceptual designer for the company. I'm the energy efficiency guru for the company, if you will. I go out on the job site with staff on about a two-hours-a-week basis to inspect the sites to make sure that the framers or the insulators or what have you are actually following the procedures that I've laid out for them and building the homes according to my specifications. I'm not on the tools.

Between the three of us, that's almost \$22,000 in costs in WSIB that will be incurred by us through this process. At an average of 40 homes a year, that's almost \$550 in additional costs in the home, with, to my mind, no perceived benefit, because I still have to carry additional insurance. That's adding cost to the home because we have to pass it on to our consumers. If I've got a large corporation that has four directors and builds 200 homes a year, that math falls by five, so it's \$100 a home. I've got to

compete against companies that are in that boat. How is that fair?

That's the crux of this: There doesn't seem to be an element of fairness; that it's being applied with such a broad brush as far as I can understand and read, because it's very difficult to fully understand this. My understanding is that it will be applied to me even though I'm not on the tools. I'm actually a designer by trade, and I'm on the job site for about two hours a week, but because it's a supervisory capacity, I'm going to have to pay full pot. Something has got to be done about that.

Secondly, with regard to my staff, I have a total staff of 26. That's including the four directors. As far as the number of staff who are always on the job site, it's 27%. Those who are occasionally on the job site—that would be 10% of their time or less, or about four hours or less—would be 38% of my employees. Those who are never on the job site—in fact, some of them probably don't even know where the job sites are—is 35%. So 73% of my employees, including my directors, are either never on the job site or seldom on the job site and yet we have to pay at the full construction rate. How is that fair? That's the part that really galls me. I think that's why the system is broken.

**The Acting Chair (Mr. Shafiq Qaadri):** Mr. Tarry, I'll need to intervene there. You'll now be cross-examined for the next 30 minutes, 10 minutes each per party, beginning with the NDP caucus. Mr. Natyshak.

**Mr. Taras Natyshak:** Thank you, Mr. Chair. Can you hear me?

**Mr. Doug Tarry:** Yes, sir, I can.

**Mr. Taras Natyshak:** Thank you for your presentation, although with some of the technical difficulties that we had, I missed a good chunk of it, I have to say. I think our clerk is going to request a copy of your briefing. I don't think you delivered that all off the cuff, had you?

**Mr. Doug Tarry:** No.

**Mr. Taras Natyshak:** Okay. If you wouldn't mind, I'd love to just go over some of the specifics because I missed a whole bunch of it.

**Mr. Doug Tarry:** I will do my best. I will qualify that the staff did prepare this for me. Towards the end, it was about my own company, which I know much better.

**Mr. Taras Natyshak:** Okay, thanks.

I've got a little background in construction. My sister owns a heavy construction firm that I worked for for nearly a decade. I was on the tools all the time, but my sister being one of the front office folks and also the health and safety director, she found herself on the sites about the same amount of time that some of your front office staff—you had mentioned. Nevertheless, it didn't necessarily mitigate her exposure to a potential accident, because we're always—on a site, you never know what's going to happen. A rigging could snap, a boom could go down, you get different types of—all those things that we know that you're exposed to the minute you step on to a site.



As well, the front office at our shop was built on the same grounds as the back office—as our shop, actually—so you’ve got trucks coming in and out of there all day long. You’ve got multiple areas to get injured, and even though you don’t—that’s why, actually, when the front office folks come into the back, they have to have all the same safety precautions in terms of boots, hearing. Are you saying that you can delineate completely the exposure from your front office people with the rest of your operation 100% of the time?

**Mr. Doug Tarry:** My offices are two small bungalow-type buildings that are on pretty much a residential street that’s actually in a commercial portion of the residential street in St. Thomas. It’s probably a couple of kilometres away from where the construction is actually occurring. I have a parking lot there. There’s direct access right into those buildings. The construction trucks virtually never enter.

To the comment about as much exposure when I’m taking a designer on-site as for a labourer, I would say that it would be about one twentieth. If I’ve got a designer that’s on-site for two hours a week versus a labourer that’s there for 40 hours a week, I would say that that exposure is one twentieth of the risk.

**Mr. Taras Natyshak:** Yes, and I would agree with you, the exposure is. But if you could time an accident, if you could tell us when the accident was going to happen, then that exposure period really doesn’t matter. You never know. As long as you’re on the site, you’re there. Of course, your percentage would go down, but regardless, you are involved in construction and that site, in its nature, is potentially dangerous, more so than other industries that don’t have the same types of activities that go on. So I think that’s the general premise of the inclusion.

I’d like to move to—

**Mr. Doug Tarry:** Okay, but hang on, now. What about the office staff that never go there? How come they don’t get a different rate?

**Mr. Taras Natyshak:** I’m under the understanding that there could be different rates that are structured for that staff as well. That’s all—

**Miss Monique Taylor:** Ergonomics.

**Mr. Taras Natyshak:** Yes, obviously, within clerical staff, there are other incidences of workplace accidents and illnesses—ergonomics and musculoskeletal, repetitive strain injury. And I know your business may be different—

**Mr. Doug Tarry:** Yes, but shouldn’t that be qualified under secretarial, the same as secretarial would be?

**Mr. Taras Natyshak:** Sorry? Say that again, please.

**Mr. Doug Tarry:** If I’ve got a secretary, why am I paying a construction rate for her?

**Mr. Taras Natyshak:** I’m under the understanding that your clerical staff could be under a different rate than your construction staff due to the nature of their operations.

**Mr. Doug Tarry:** I’m absolutely not under that understanding.

**Mr. Taras Natyshak:** Okay, we’ll get clarification on that.

Here’s the other thing that I’d like to talk to you about. I’ve got the website in front of me, and it talks about the HST and the GST and the effects in that shifting growth and the underground economy. I’m wondering if you see any merit in the imposition of WSIB, on those underground, grey-market operators now having to comply with WSIB regulations and reforms and having to report to WSIB. Should that not weed out those underground contractors that obviously affect you as a legitimate business person?

**Mr. Doug Tarry:** How are they going to comply?

**Mr. Taras Natyshak:** Well, you would have enforcement of their compliance.

**Mr. Doug Tarry:** This is already an underground economy.

**Mr. Taras Natyshak:** You weed them out. You force the compliance to them.

**Mr. Doug Tarry:** How do you do that?

**Mr. Taras Natyshak:** Well, the same way you stop somebody at a stop sign. You have someone who, hopefully, is able to catch them in the process and to enforce the law.

**Mr. Doug Tarry:** I used to do renovations, and we literally had to stop doing it because we couldn’t compete with the guy in his pickup truck who’s buying \$4,000 worth of lumber and going and finishing off a basement for somebody. How are you going to catch that guy when it’s in a residential neighbourhood, when the inspectors are only actually out in construction sites?

**Mr. Taras Natyshak:** It’s a valid point. Obviously, with any new legislation comes the need for appropriate enforcement. Your point is well taken. My hope is that actually the adequate resources are attached to the legislation to ensure that actually is one of the outcomes, that we get that added catchment from those who have been avoiding being a part of the system. Even in your own figures here, we have a loss of up to \$767 million from revenues such as CPP and WSIB that could be taken up from some of the underground operators. So I think it’s well worth taking a look at ensuring that the adequate enforcement processes and resources are available so that we do get catchment. I would think that your input on doing that, on contractors that are already in the business doing the right thing, can help the system and help us weed those underground operators out.

**Mr. Doug Tarry:** We would very much so like to be at the table for those conversations.

**Mr. Taras Natyshak:** Clerk, how much more time do I have?

1110

**The Acting Chair (Mr. Shafiq Qaadri):** About three minutes.

**Mr. Taras Natyshak:** Say that again, please, Mr. Tarry?

**Mr. Doug Tarry:** We would very much so love to be at the table for those conversations. Helping the government with how to find a solution to the underground



economy is of paramount importance for our association and its members.

**Mr. Taras Natyshak:** It's paramount to myself as a member, too, and I certainly would welcome any of your ideas on how we can do that within the context of the WSIB as well as other things to be able to ensure that you have a level playing field.

That's it for my questions, Chair.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Natyshak. The NDP cedes its time?

**Miss Monique Taylor:** No.

**The Acting Chair (Mr. Shafiq Qaadri):** Miss Taylor.

**Miss Monique Taylor:** I would just like to comment that my understanding also is that a person working in the office wouldn't pay the same premiums as the person on the person on the construction field. That is definitely been what has been said around the table for the last day and a half, and I have people at the table shaking their heads saying that I'm correct in that.

I completely understand the frustration that you're feeling on that, but there are things that can happen within an office space. There are other offices within the province that do have to pay WSIB premiums for those staff members. It just puts that person in a better position so that when they do have, whether it be a back injury—if they slip and fall in the kitchen; it happens, right? It's definitely unfortunate, and we want to make sure that all workers are safe and have the best outcome at the end of the day for their family.

Those are my only comments. Thank you very much for your time.

**The Acting Chair (Mr. Shafiq Qaadri):** Mr. Tarry, I now hand you over to the Liberal caucus. Ms. Albanese.

**Mrs. Laura Albanese:** Thank you for your presentation, Mr. Tarry. Yes, I would like to reiterate what MPP Taylor was just mentioning and the fact that we've been hearing that the WSIB has been working on all these issues that you were mentioning, in particular the rate groups. The question about the other staff is being addressed: We were told yesterday that the WSIB is going to be looking at specific policies that will be released soon in that regard. I just wanted to make that comment and reassure you in that regard.

During your presentation, you spoke about not receiving appropriate compensation. I wanted you to elaborate for a second on that. What did you mean by that exactly?

**Mr. Doug Tarry:** As the director of the company, WSIB would only cover me, my understanding is, while I'm actually on the clock. I still have to, in order to protect the assets of my company—in other words, my ability to work—carry private insurance that's actually better than what's covered by WSIB for full 24/7 coverage. That's what's frustrating about this: that we as an industry, when we're at the director level, are already carrying separate insurance.

**Mrs. Laura Albanese:** But I think that's the same for everybody else. I don't think that there is a difference with other types of companies.

**Mr. Doug Tarry:** So why would we need to have WSIB as well?

**Mrs. Laura Albanese:** Because, as MPP Natyshak was mentioning, a construction site is potentially a more dangerous place—

**Mr. Doug Tarry:** But if my insurance is already covering me, why do I need WSIB?

**Mrs. Laura Albanese:** That will be modified. We're saying that the WSIB is addressing this policy as well. That's going to be modified in a way that—

**Mr. Doug Tarry:** Sorry; when you say "modified," what do you mean? What numbers are we talking about here? Is it still going to be at the full rate of—was it \$1,700 a year?

**Mrs. Laura Albanese:** I believe that the insurance rate will be modified to reflect what you're paying for WSIB. Anyway, the changes will be released soon, so that should be addressed. Your concerns in this regard should be addressed as well.

I also wanted to ask you what you thought about the current experience rating program, if you had any thoughts, any opinions, on that.

**Mr. Doug Tarry:** The training program, is that what you said?

**Mrs. Laura Albanese:** The experience rating program.

**Mr. Doug Tarry:** I'm sorry. I would have to defer that one to my staff. I'm not familiar enough with that one to answer that question. We would gladly answer it for you, though.

**Mrs. Laura Albanese:** Okay. This is basically a rebate system for employers where employers receive rebates if they have good safety records.

**Mr. Doug Tarry:** Well, that sounds like a good idea. I'd want to see the details of it, though.

**Mrs. Laura Albanese:** Okay. Do you think it's important for the WSIB to balance the unfunded liability in the short term or in the longer term?

**Mr. Doug Tarry:** I think you need a long-term game plan, because it's too big of a number to do it in the short term.

Can I come back to that previous one?

**Mrs. Laura Albanese:** Yes.

**Mr. Doug Tarry:** So you're saying that employers that have a good record might be getting some type of rebating back. So kind of like a carrot and stick there, here; we'd actually get a benefit for doing well?

**Mrs. Laura Albanese:** Yes. That's the experience rating program.

**Mr. Doug Tarry:** And then if you could really hammer the underground economy, guys? That would be great.

*Laughter.*

**Mrs. Laura Albanese:** Yes, we agree. We agree. Absolutely.



**Mr. Doug Tarry:** I can hear laughing, so I guess it was intended the right way, then.

**Mrs. Laura Albanese:** Has the WSIB been successful in any way in the last few years in helping you, as an organization, to bring down accident rates?

**Mr. Doug Tarry:** No. We do our own training. We still work with the safety inspectors and we co-operate when we find that we're not in the right—if we're doing something inappropriately, we correct it. We're more than happy and willing to learn as a company and to grow. But as far as—you're talking about WSIB premiums, now? No.

**Mrs. Laura Albanese:** So in other words, you're involved in your own health and safety campaigns independent of the WSIB?

**Mr. Doug Tarry:** Yes. In fact, the Ontario Home Builders' Association separately from that has an actual health and safety committee, and we've got a really great trainer named Bruce Bolduc who's been going around to a lot of our locals doing presentations.

**Mrs. Laura Albanese:** So you're providing education to your employees on your own to improve workplace safety?

**Mr. Doug Tarry:** Yes, and also in compliance with when the inspectors are out and about. We have a pretty good training program for fall-assist here in St. Thomas and also for the guys that have to handle propane—that's mandatory. We also try and make sure that our subtrades are in compliance as well.

**Mrs. Laura Albanese:** I see. Are there any recommendations, other than the ones you made, on how to improve the relationship between employers and the WSIB?

**Mr. Doug Tarry:** Yes. We would really like to be at the table when you're having the conversations about how you might restructure WSIB and looking at the underground economy. We clearly are not in favour of having directors who have to be covered. We think that that's a duplication of insurance. We'd love to have an opportunity to talk about that. But we want to be at the table. That is our philosophy: that we want to work with government for better outcomes for our members and for our customers.

**Mrs. Laura Albanese:** I thank you for that, Mr. Tarry.

**The Acting Chair (Mr. Shafiq Qaadri):** Any further questions on the Liberal side? Then I will offer the floor to the PC caucus. Mr. McDonell.

**Mr. Jim McDonell:** Thank you for coming before us. I guess one of your issues is, you're requested to pay full construction rates for somebody that may or not be on the site and, in fact, is maybe on the site 5% of the week. Is that what you're getting at?

**Mr. Doug Tarry:** Well, I have some employees that literally do not even know where the job site is. I'd say there's probably seven employees that are in that category: They don't know where the job site is. I'd have probably an equal amount that would be two to four hours a week, at the most.

**Mr. Jim McDonell:** So they're now expected to pay the full construction rate, which has a higher premium versus someone that would normally be secretarial or office-type?

**Mr. Doug Tarry:** Well, my concern is that up until this conversation today, we were also paying that on secretarial. We've argued that point for many, many years. So this is complete news to me that secretarial is going to be at a different rate, and I applaud the action.

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**Mr. Jim McDonell:** It sounds like that's something that's in regulation that hasn't been issued yet, but that's being considered. I guess we'll have to wait to see that.

The other issue is on the underground economy. It's a huge issue in the construction industry. Do you see this adding to the problem? It's another form of tax, you might say, so since they're there to avoid a tax, the encouragement for them to actually hide the fact that they are working will actually increase.

**Mr. Doug Tarry:** These guys are breaking every rule there is. They don't care. They're not going to care until you throw them in freaking jail. What part of that message am I not getting through to you? The problem is, they don't care. They are underground, illegal work.

**Mr. Jim McDonell:** That's my point. I was just asking you to clarify that. I think everybody in the room would be burying their heads in the sand if they didn't acknowledge that there's a huge underground economy. Actually, some of the federal programs where they receive tax funding back alleviated some of that problem, where people had to pay the tax to be able to get the refunds.

**Mr. Doug Tarry:** As a provincial association, we are actively lobbying or advocating with the federal government and the provincial government for a permanent renovation tax credit, because we think that's one of the greatest tools that can be used to battle the underground economy.

I think over 60% of customers admitted that they would pay cash for a deal at home. That means they're not necessarily getting skilled workers; they're not getting people who are actually trained in health and safety; they're not getting people who are remitting to the government. When you're looking at the energy efficiency part of our industry, there's a significant amount of building science that's completely ignored, to the detriment of the occupants' health. There are so many benefits to actually making the aboveground economy work.

**Mr. Jim McDonell:** I agree.

I'll just pass this off to Randy.

**The Acting Chair (Mr. Shafiq Qaadri):** Mr. Pettapiece.

**Mr. Randy Pettapiece:** Good morning. I have two questions, and they should be rather short.

You got back to your own insurance that you carry on yourself. Do you carry enough insurance that you have an equal amount of insurance on yourself to the WSIB, or do you have more benefits?



**Mr. Doug Tarry:** More.

**Mr. Randy Pettapiece:** You have more benefits. I know there are going to be some adjustments, but they were asking you to pay another premium even though you didn't need it.

**Mr. Doug Tarry:** Correct, and that would be industry-wide.

**Mr. Randy Pettapiece:** You're in a partnership, and your partner doesn't actively work with you at all. Your partner is just there as a—

**Mr. Doug Tarry:** Shareholder.

**Mr. Randy Pettapiece:** —a shareholder or whatever else. Is that partner, in your understanding, going to have to pay these premiums?

**Mr. Doug Tarry:** We're very concerned that that is in fact the actual case.

**Mr. Randy Pettapiece:** I'm sorry?

**Mr. Doug Tarry:** We believe at this point that that will be the case. We haven't seen the final presentation here, so we don't know, but everything that we've heard to this point is that that will be the case.

**Mr. Randy Pettapiece:** That's interesting.

That's really all the questions I have. Jane?

**Mrs. Jane McKenna:** Hi, Doug. It's Jane McKenna. Thank you for coming on today. It was great to hear some of what you said.

My first question to you is: If you had the power to remodel the system, what changes would you make?

**Mr. Doug Tarry:** Number one, I would say that when you're talking about directors of companies, they must provide proof of insurance—not necessarily have WSIB, but they must provide proof of insurance. If they're significantly on the job site—and I mean significantly—then maybe that's a different point. If they're an actual acting guy who's out on the job site every day and that's his role, that's different than the guy who goes out and supervises periodically because he's covering somebody being off on holidays.

Number two, there has to be something done—and I really applaud the move to secretarial being separate, if that happens, because that's long, long overdue—when you've got staff who need to go to the job site to inspect jobs because that's part of their role in a supervisory capacity on an occasional basis, having to pay the full freight. That's not fair.

The last thing is, please ask us to be at the table when you talk about the underground economy, because we really desperately want to be of help.

**Mrs. Jane McKenna:** You're a wealth of information. It's great. I love listening to people like yourself.

My next question is: You brought up Bill 119. Can you elaborate on that? My couple of questions are: Why do you think it was introduced and what impacts, if any, has it had up to now?

**Mr. Doug Tarry:** I would say that, honestly, this has a far greater impact on small to mid-sized companies than it does on, say, a large corporation. A large corporation—this might be a blip to them, because an extra \$5,000 or \$6,000 a year over four direct shareholders

may not be that much. For my company—as you know, in my town I'm a fairly big company but in the overall scheme of things I'm a relatively small company—it's a big deal. It's quite unfair how it impacts against me having to go and compete with those other companies. We're being penalized for having been moderately successful.

**Mrs. Jane McKenna:** Right. When you sit back in the position that you're in, because you can hear your passion in your voice. You have great concerns because the reality is, capital is mobile, right? Bay Street knows it. People aren't going to come to high debt, high hydro and high taxes and, coupled with this on top of it with the premium rates even if they go up whatever percentage—hopefully you'll be able to have your voice and have your say, but leaving here today, your final thoughts: What would you like to add to that?

**Mr. Doug Tarry:** On all levels of government, we are concerned about the multiplier effect of tax upon tax upon tax, and what it's ultimately going to do to the ability of consumers to buy a home, have a roof over their head and good housing. We're desperately concerned about that. We think that the only reason why our economy is still doing relatively well and is relatively okay—and it is totally attuned to markets—is because of low interest rates right now. Get outside of Toronto, and the markets are not doing nearly as well. We have been pummelled by job losses, and affordability is a major, major issue. When you start saying that you've got this WSIB added in and then you've got development charges and voluntary development charges on the municipal level and all that sort of stuff added in, and then you tack on the HST on top, which is a totally different story but it's still adds to the price, and then the customer gets to pay for that extra cost in their tax base every year, year in and year out—it's the gift that keeps on giving. At some point, this is going to break the camel's back. Affordability has got to be taken seriously and looked at.

**Mrs. Jane McKenna:** Yes, and thank you so much, because you did quite point out the fact that we are held hostage by our interest rates right now, because if we're spending \$1.8 million more an hour than we take in, even if it goes up 1%, that's 500 million extra dollars that we're just paying on a debt that we already had that we could be spending somewhere else. Anyway, thank you so much for your time. It was great talking to you.

**Mr. Doug Tarry:** Thank you. Thank you for having me.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Ms. McKenna, and thanks to you, Mr. Tarry, for your deputation.

Just to advise the committee, because of our collective efficiency, we're done ahead of schedule. The committee is in recess till 1 p.m. today in this room.

*The committee recessed from 1128 to 1301.*

**Le Président suppléant (M. Shafiq Qaadri):** Mesdames et messieurs, chers collègues, j'appelle à l'ordre cette réunion du Comité permanent des organismes gouvernementaux.



Ladies and gentlemen, as you know, we are here for an agency review of the Workplace Safety and Insurance Board. I officially call this meeting to order.

## ONTARIO PUBLIC SERVICE EMPLOYEES UNION

**The Acting Chair (Mr. Shafiq Qaadri):** We'll begin with our first presenters of the afternoon, from the Ontario Public Service Employees Union, more affectionately known as OPSEU. To begin with, gentlemen, you'll have 10 minutes in which to make your presentation, after which we'll have 30 minutes divided evenly amongst the various parties. I would respectfully invite you to please begin now.

**Mr. Allen Jones:** Good afternoon. I am Allen Jones, benefits counsellor at OPSEU. This is Mike Grimaldi, regional vice-president of OPSEU. Thank you for inviting us here today. OPSEU's 130,000 members are split fairly evenly between schedules 1 and 2. Mike and I together have been in this business quite a while, representing injured workers for between 50 and 60 years. That's collectively.

In our presentation today, we want to raise concerns regarding the administration of the Workplace Safety and Insurance Board and the workers' compensation system in Ontario. Those charged with managing the system seem to have lost their way.

The Workplace Safety and Insurance Act gives direction as to the purpose of the act. The act states four purposes: to promote workplace health and safety; to facilitate return to work; to facilitate labour market re-entry; and to compensate injured workers. The act intends that these things actually be accomplished, that they happen—and they're not happening. What is happening instead is that the WSIB has established other priorities. The result is that our members are suffering.

I refer to two examples here, two members. Dolly C. was injured at work in August 2009. She returned to work as the result of a work transition plan in March 2012 and stopped work in May 2012 due to reinjury.

Mike K. was injured initially in 1994. His injuries were assessed as permanent. He continued working at modified duties with the employer until July 2010, when he suffered another accident at work and sustained different injuries. These subsequent injuries were considered permanent as well. He returned to work in November 2011 after the intervention of a work transition specialist from the board. He sustained reinjury and stopped work in December 2011.

Both claims were allowed. Both cases resulted in claims for reinjury on the part of these members. One was allowed; the other denied. This reflects the denial rate for recurrence, which is historically around 40%.

Both reinjuries resulted from return to work to unsuitable work. Both members raised concerns, based on the medical advice of their doctors. That advice and those concerns were ignored by the WSIB and the employer.

Both members' return-to-work plans were developed after meeting with the WSIB. However, the plans that were developed did not reflect our members' input at all. Indeed, Dolly was presented with a plan at a meeting with the WSIB in which the plan was presented on a "take it or leave it" basis. There had been two prior "take it or leave it" plans. This terminology was used by the WSIB staff involved, not us.

Mike's experience was the same. The terminology "take it or leave it" was not used, but it could have been.

The question is: Was the whole return-to-work consultation process that our members participated in designed to give them the illusion that their input was valued? It seems so. Have the purposes of the act been accomplished? It seems not. Both employees have been reinjured at work. The first purpose of the act has been lost. Neither employee is working, so the second purpose of the act has yet to be accomplished. Only one of them is getting benefits, so the fourth purpose hasn't happened either. All of this is going on in spite of WSIB involvement in the claims for two years.

If this is not frustrating enough for these members, both Dolly and Mike have identified suitable work with their employer, both to the employer and the WSIB, work that they feel they have the ability to do, would be safe for them, would restore their earnings and not require further benefit payments; work that accomplishes the purposes of the act. Both members requested section 41 determinations, determinations regarding the employer's compliance with the re-employment provisions, in writing, that the WSIB hold their employers in breach. Both requests have been largely ignored. This behaviour on the part of the WSIB cannot be explained solely on the basis of financial responsibility.

Why is this happening? The policies of the WSIB do not appear to be aligned with the purposes of the act. They do not reference these purposes, nor do they accomplish these purposes. I take, for example, the recent audit of LMR done by KPMG. This was the second audit. It found no greater LMR success than the first audit. It seems that the response by the WSIB has been to abandon LMR altogether. We have seen no new LMR programs since the audit. For instance, Dolly's first two "take it or leave it" work transition plans involved LMR. These plans were pulled off the table in favour of having her return to the work that injured her.

How is this happening? Firstly, it is the WSIB's practice to use off-policy criteria to deny entitlements. I call these criteria, or their source, the secret board policies. The majority of decisions to deny our members statutory entitlements cite criteria that cannot be found in board policy, never mind in the statute. For instance, the WSIB denied Dolly's recurrence. The letter cited the criteria that she was doing suitable work for her. The WSIB policy on recurrences does not mention this criteria. The WSIB has always used secret policies. In 2005-06, the WSIB disclosed a lot of these secret policies and put them on their website. I've seen nothing since, and requests for disclosures are routinely ignored. It is un-



acceptable for an Ontario government agency to be determining the statutory entitlements of the citizens of Ontario, of OPSEU members working for the government of Ontario, by the use of secret policy criteria.

Mike has something to say here, and I'm going to run over if I keep talking. The presentation is here; I urge you to read the rest of it.

**Mr. Mike Grimaldi:** I'm going to deal with two issues briefly, I won't have time to deal with them fully, but I want to talk about coverage for a second and then I want to talk about loss of earnings.

On the coverage aspect, I think it's important for the people in this room to know that many of the provinces and territories in Canada have mandatory coverage for all workers in the province, and clearly, that's the way Ontario should be. Currently, for example, our young offender officers who were part of the Ontario public service until privatized by a former government—those privatized facilities don't have to be covered by WSIB. So you have people who are now working with the most violent of young offenders who are incarcerated, and those correctional officers who have to take care of those people aren't mandatorily covered by WSIB. How can we justify that? There's actually no justification that anybody can rationally put to the fact that people who have to take care of and make sure that society is safe don't get covered under WSIB. That's one of the aspects that I want to talk about in coverage.

The other one is developmental service workers. Developmental service workers which were once part of the Ontario public service, many in larger facilities that have been closed or privatized—when they go into the private sector, again in many cases they're not covered by WSIB.

I can just give you an example of what happens in one case. We had two women at a developmental services situation who had a client who lost his temper. They had what was called a safe room, where they could lock themselves in. That's our defence for our developmental services workers who get bit, who get beat up, depending on the situation, depending on what the diagnosis of the client is. They locked themselves into this room, but there was a window in the door. This client picked up a huge planter out of the lobby area, busted the window, broke in through the door, broke one woman's arm and assaulted the other woman before the police could come in and resolve the situation. I don't know what the rationale is, but it seems to me there's no rationale why those two individuals shouldn't have been covered by WSIB, but they're not. That's, in my view, a disgrace, and I don't understand how we, as a society in Ontario, can say those people should not be covered by WSIB.

1310

There are other instances of coverage where people should be covered and aren't, but I wanted to give you those two specific examples, because, again, it's one of the negative aspects of privatization and downloading of services from the provincial government.

On the LOE side, I'm just going to talk briefly about two aspects. One is, if I get my back injured at a job and I'm 60 years old and I go off, I get paid loss of earnings, I go through a recovery period, get some physiotherapy or whatever—but let's say I still have ongoing problems with my back. I might even get a small non-economic loss award. But I continue to work and I continue to suffer. Many workers work through pain. You work through the pain. A couple of years later, I decide I've had enough of this pain, so I retire. Then a year later, I suffer a recurrence, where my back has now deteriorated to the point where I need surgery. The WSIB determines at that point in time that, in fact, I get no loss of earnings, because now I'm retired. It doesn't matter that my back has now required surgery. It doesn't matter that I'm probably never going to be able to do the things that I want to do: play catch with my granddaughter, go fishing with my grandson. Those things are eliminated, but I get no loss of earnings.

We have to remember that workers gave up their right to sue in order to get these kinds of benefits. Under the right to sue, you'd get loss of enjoyment of life, loss of companionship. All of these kinds of benefits that you'd get under the right to sue, you don't get under WSIB. To take that one step further, if it's an occupational disease and I'm dying of mesothelioma or I'm dying of asbestosis, I get nothing if it happens after I retire? My poor spouse probably has to work to take care of me. She gets nothing during that period of time—

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, gentlemen. I now offer the floor to the Liberal caucus, to Ms. Albanese.

**Mrs. Laura Albanese:** Thank you, Chair, and thank you very much for your presentation. I know it was cut a bit short.

It seems to me that one of the first things that you said is that you would be in favour of full coverage. I guess that would be the position.

**Mr. Mike Grimaldi:** Yes; absolutely correct.

**Mrs. Laura Albanese:** Is that correct?

**Mr. Mike Grimaldi:** It seems to me that every worker in the province of Ontario should have the same benefit to be covered by the Workplace Safety and Insurance Board. You're going to hear me say "Workers' Compensation Board" a lot because I'm an old guy.

**Mrs. Laura Albanese:** We've had other people who have said that as well. They will always call it that because they've called it that for too long.

You were mentioning this secret policy criteria. I guess I would want to ask you: How would you characterize your relationship with the WSIB? Have you spoken to them about this? Do you have a good relationship with the WSIB where you feel you can bring these discussions up and talk to them about what's of interest to you?

**Mr. Allen Jones:** There was a committee, what's called a schedule 2 committee, and I happened to be on that committee. The WSIB has apparently abandoned its



consultation with schedule 2 employers and schedule 2 unions, so that committee doesn't exist anymore.

As an individual rep, I make my requests of the WSIB's—the person who uses the criterion that I don't recognize in the policy and ask for a policy reference. That doesn't go anywhere. Then I ask the WSIB's freedom-of-information coordinator. I've never gotten any disclosure from the WSIB. It doesn't matter who I ask, whether it's a manager, a director. I've gotten no disclosure from the WSIB since that massive disclosure that was in 2005-06. I think it was around that date. There was a lot of stuff put on the website that were copies of, actually, documentation that the WSIB was using and not disclosing.

**Mr. Mike Grimaldi:** And just to follow up on that, there's a difference between the WSIB policy manual, which we all have access to, and the WSIB's internal procedures, which they use in order to adjudicate a number of claims. A lot of times, these so-called secret policies are procedures that the WSIB follows internally, which—it should be accessible both to worker reps and to employer reps. I know that I've had discussions with employer reps who have had the same or similar kinds of complaints.

**Mrs. Laura Albanese:** Another question that I had is, in your opinion—and I know you deal mostly with injured workers, right? I guess I have two questions. One: What suggestions would you give so that the WSIB could give better service to injured workers? That would be my first question—at this point in time.

**Mr. Mike Grimaldi:** In my view, there are two things that are necessary. One is, much better training for front-line staff. Unfortunately, the WSIB is almost like an inverse pyramid. You get front-line staff who deny claims; you take them to appeals; appeals expands that a bit and allow more, given a better view, maybe, of what the legislation and policy say; and then you take it to the appeals tribunal, where it expands again and where they maybe have the best view of what the overall policies and legislation say. Rather than having the front-line staff making good decisions, you have to go up through the system, which sometimes takes two years.

Front-line staff, in my view, don't get enough intensive training. The other thing is, they're overworked. They have far too heavy caseloads to do the job properly. It's my understanding that the WSIB is still downsizing and laying people off. I can't understand how they can be doing that at a time when they have huge backlogs.

**Mrs. Laura Albanese:** You said that was the first suggestion. The second one?

**Mr. Mike Grimaldi:** The second suggestion is that in my view, in an appellate system, if you have a judge and the case goes to the court of appeal, the judge knows that the court of appeal has overturned his decision and why. You've got appeals resolutions officers who consistently make bad decisions, wrong decisions, that get overturned at the appeals tribunal. Those appeals tribunals should go back to that appeals resolution officer so they know that they're going to get overturned every time we take it to

an appellate level so that they know what they're doing wrong and they know why they're doing it wrong. I don't think there's enough of an explanation on WSI Act determinations.

**Mrs. Laura Albanese:** There should be communication back and forth between the appeal system and—

**Mr. Mike Grimaldi:** And the front-line staff and the appeals office. It shouldn't be, "No, we're always right. It doesn't matter that the appellate division has overturned us." A judge doesn't say, "I'm always right. It doesn't matter what the court of appeal says." A judge says, "The court of appeal says that. That's the law."

**Mrs. Laura Albanese:** Have you seen any difference since the WSIB introduced its new return-to-work program in 2011?

**Mr. Mike Grimaldi:** Allen and I probably have different views on this. I would say that in the cases where I've worked with work transition specialists, I have had some really good input and really good ability to work through cases. Allen and I were just at a facility within the Ontario public service where we're trying to work through a return-to-work. But it's very inconsistent. It depends on the training of the work transition specialist. It depends on their ability to view the workplace as a whole. Sometimes it works and sometimes it doesn't.

In my view, again, that's an area where there needs to be more concentration on somebody who has developed good return-to-work skills. For example, in the trade union movement we negotiate return-to-work consistently, whereas these people don't have that kind of background because that's not where they come from.

**Mrs. Laura Albanese:** I will now turn it to MPP Cansfield.

**The Chair (Mr. Shafiq Qaadri):** Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I want to ask you a question about the Friedland formula, because it was introduced in the 1990s by the NDP.

**Mr. Mike Grimaldi:** I know very well when it was introduced, yes. You're right—another mistake.

**Mrs. Donna H. Cansfield:** Yes, and then it was modified, I think, by Mr. Harris.

**Mr. Mike Grimaldi:** Yes.

**Mrs. Donna H. Cansfield:** We've been doing some adjustments. Obviously, there's always more to do. Harry Arthurs has actually put through some recommendations, and I'm curious to have what your position is on record.

**Mr. Mike Grimaldi:** I agree completely with Harry Arthurs on the aspect of the fact that full indexation should be brought back within the system. Why we would punish someone who has a partial loss of earnings by not giving them at least a cost-of-living increase per year seems to me to be punishing the most vulnerable people in society. There's really no rationale, outside of saving money, for the board, and that's not the way to save money at the board.

**Mrs. Donna H. Cansfield:** The reason I asked the question—because I know that full indexing is—you're right: I think you need to look after the folks. Remember what happened with the rent when we had 0.7% and then



it jumped to 3%? There is that tendency to have an inconsistency, which is also very difficult for people who are managing on what might be a modest budget. I was curious as to whether or not it was just an automatic cost of living or you think there should be some rationale around that discussion as opposed to just basing it on that particular figure.

**Mr. Mike Grimaldi:** I think that's an excellent question. The fact of the matter is that, in my view, it needs to be automatic. The problem is, if it's not automatic—no disrespect to legislators; I know the pressures that you're all under—if you do it only periodically, in good times people will get it—and sometimes they get significant jumps all at once, and other times they don't. As you'll know, back in the old days, that's the way the WSIB worked. The Legislature used to bring a motion every couple of years and increase the benefits, and it proved that historically, injured workers never kept up with the rate of inflation because of that. So if you do automatic indexation, then the Legislature doesn't have to determine, "Are we in bad times or good times?"

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**Mrs. Donna H. Cansfield:** Okay, great. Thank you very much.

**The Acting Chair (Mr. Shafiq Qaadri):** To the PC caucus. Mr. McDonell.

**Mr. Jim McDonell:** Thank you for coming today. I know that it's a tough balance. You bring up the case of people retiring and, after, having an issue. Through my circle, people I know, that tends to be an issue. People, as they grow older, have more health problems. Some of them don't know where they got the problems. Where do you go with that? How do you track these later on? How do you exclude people who maybe don't know where they hurt their—

**Mr. Mike Grimaldi:** For me, that's an easy answer. I appreciate the question. The fact of the matter is, the board has to adjudicate every claim individually. They have to first adjudicate, "Is this work-related?" When they do adjudicate that it's work-related, where workers don't get loss of earnings is—as I got cut off when I was saying it, let's say I get mesothelioma. I've been exposed in the workplace, because it's proven that it's only caused by asbestos. I have asbestos exposure in the workplace. When I get that, I get no loss of earnings. But if I had the right to sue, I could make a lot of money on suing somebody who caused me to get mesothelioma—not to even take into account the fact that, as I was trying to say earlier, I can't play catch with my granddaughter; I can't go fishing with my grandson because I've got this oxygen tank I've got to carry around. We're talking about people who are, at that point in time, suffering and dying because of the disease they got in the workplace, and we're saying, "You get no loss-of-earnings benefits." How can we justify that when, if they had not given up the right to sue, they would have a right to sue not only for themselves, but for their spouses, for their dependants? It's just not reasonable.

Also, now we're telling their survivors that they don't get any benefits because their benefits are based on loss of earnings, and all they get is a legislated minimum under the Workplace Safety and Insurance Act because, again, they don't have the right to sue. If those people had the right to sue and their spouse died because of negligence on behalf of the employer because of the exposure, they would be well off and taken care of for the rest of their lives.

Why is it that because you're an injured worker, you don't get taken care of, but if you had the right to sue, you are taken care of? Why is it that if you're the spouse of an injured worker, you don't get taken care of, but if you're a spouse of an automobile victim, for example, you do get taken care of?

Think about the children, the grandchildren and the dependants. I can't for the life of me understand why, in any kind of compassionate society, we would say that those people, because they're workers, should get treated differently than somebody who has a right to sue.

**Mr. Jim McDonell:** My point is, as you get older—as an example, back issues. Probably more than 50% of the population has a back issue, and that's just an example. Where do you go with that? Why are they any different than the people who—there are only a few people—

**Mr. Mike Grimaldi:** It first has to be adjudicated—

**Mr. Jim McDonell:** No, let me finish my question. There are only a few people who can actually track their issue back to a certain occurrence. Usually, they're cumulative. They happen as a fact of life. What puts somebody ahead of somebody else in line for treatment, and how do you make those decisions? Who acts as God in these cases?

**Mr. Mike Grimaldi:** As you probably know or at least should know, the fact of the matter is, the WSIB examines the medical evidence. If I go to the WSIB at any point in time—not only when I'm older; at any point in time—and say, "Hey, I've got a back condition," in order to prove that I have a back condition that's work-related, I have to have strong medical in order to prove that I have a back condition, in order to prove that it relates to the workplace. You have to have a whole bunch of criteria that you meet in order to get WSIB in the first place. If you and I both have back conditions and you got yours because you were lifting up something heavy at work, and I'm in the same workplace and I have a back condition but I haven't lifted up anything heavy at work, I don't get benefits and you do. All of that has to be adjudicated by the board. It's adjudicated now.

I can tell you, people don't just get benefits because they showed up at work. You have to have a specific workplace injury or a disablement that's brought on by the work, and that's adjudicated very strenuously by the board.

**Mr. Randy Pettapiece:** Thank you. I want to get back to these workers that were beat up, and you said they didn't have any WSIB coverage. Did their employer have any other kind of insurance?



**Mr. Mike Grimaldi:** Those workers—because, of course, they're our members, right? We've negotiated sickness and accident benefits for them, and in the case of these two workers, we were able to negotiate something with the employer where they were covered for medical expenses and covered for some lost wages. But the fact of the matter is, that's because they have a union. If they're in the same workplace without a union, where they haven't negotiated those benefits and haven't negotiated those kinds of contractual agreements with the employer—and there's all kinds of views on unionization from your political party, but because they did have a union and because they're covered and because everybody in that workplace is covered, they were able to get benefits. That's the benefit of having a union.

**Mr. Randy Pettapiece:** I don't think this is about unions. What I'm saying is, these people got coverage other than WSIB.

**Mr. Mike Grimaldi:** They got coverage because we negotiated it in their collective agreement. They didn't have coverage before they were in a union.

**Mr. Randy Pettapiece:** Were they union members before?

**Mr. Mike Grimaldi:** They were union members at the time they were injured, but originally—

**Mr. Randy Pettapiece:** Okay. My point is, somebody could have gone in there, a lawyer or whatever, and probably negotiated the same thing. You don't have to have a union to do this.

**Mr. Mike Grimaldi:** I have yet to see a workplace where I go into the workplace and negotiate personal coverage for myself with the employer. If you have examples of that, I'd like to know where they are.

**Mr. Randy Pettapiece:** I would suggest that could be done. I don't think that this is a union thing.

**Mr. Mike Grimaldi:** I would suggest that could be done maybe in a fairy tale, but not in real life.

**Mr. Randy Pettapiece:** No, it's not a fairy tale, sir. Would you agree there's too much bureaucracy involved in the WSIB?

**Mr. Mike Grimaldi:** I wouldn't say that there's too much bureaucracy. I would say that the bureaucracy needs to be fixed. The bureaucracy needs to be efficient. The bureaucracy needs to be trained. You need to have front-line staff who are trained, who understand the legislation and understand the policies. In fact, what you're going to call bureaucracy, I'm going to call front-line workers, and I would say, in fact, if there's anything, the WSIB should have more front-line workers, not less.

**Mr. Randy Pettapiece:** I don't call front-line workers bureaucracy. It's the bunch up there.

**Mr. Mike Grimaldi:** Oh, okay. Then you and I will probably agree. I could tell you a whole bunch of things about middle management.

**Mr. Randy Pettapiece:** No, you're not answering my question. Do you think there's too much bureaucracy, or could it be streamlined?

**Mr. Mike Grimaldi:** I think that there is probably too much middle management at the WSIB and I think

there's too much middle management in the government. You and I would probably agree on that.

**Mrs. Jane McKenna:** Thank you for coming and doing your presentation. I'm trying to listen to what you're saying and, first and foremost, when something started in 1914 and there haven't been any changes, it's morphed into something else, where sometimes we just blow up and start all over again.

You've said a couple of times here today that there's no process, that there's no one overseeing what's actually going on with the certain processes that are there. So clearly, that doesn't work. We've got two different issues here. One is how the system runs, and then we've got—my question to you, I guess, would be: How do we extend benefits and eliminate a \$15-billion unfunded liability? I'm trying to figure that out myself.

**Mr. Mike Grimaldi:** Boy, am I ever glad you asked that question. Two issues that I want to say: First of all, the legislation has probably changed a dozen times since 1914, so to suggest it hasn't been changed—it's been changed time and time and time again, to the point where injured workers think that the whole thing is too complicated because you keep changing it. If you'd have one method, they'd probably be able to work their way through it.

Secondly, with the unfunded liability, it's my understanding that the government has currently got a Mr. Morneau going around looking at conglomerating and giving this big pension pool investment fund, and that they're also looking at bringing the WSIB funding into that huge investment pool. If they're doing that, then who cares about the unfunded liability? It's all going to be in some pool that's separate.

Secondly, with regard to the unfunded liability, the unfunded liability only becomes a crisis situation if you're going to close the board, and nobody that I know is suggesting that we close the board. Your party has suggested that you invest, that you bring insurance companies in for competition. If you bring insurance companies in for competition, it means that people are going to be making a profit on the injuries and deaths of injured workers. I can't believe that that in any way justifies an unfunded liability where you bring people in to make profit off the injuries and deaths of injured workers. That makes no sense whatsoever. If you really want to get rid of the unfunded liability, one way is to extend coverage right across the province of Ontario, which should be done. You bring in a bigger pool and that pool takes care of your unfunded liability.

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The second way to cure the unfunded liability is to bring in better health and safety measures so that people don't get injured. And the third way of dealing with the unfunded liability is to allow claims up front, grant people better return-to-work policies, grant people better retraining policies. If you do that, people get back to work faster, which is what most injured workers want, and you cut down on the length of time the people collect



benefits. So there are many ways of reducing the unfunded liability if you think it's an issue—

**The Acting Chair (Mr. Shafiq Qadri):** Thanks to you, Mrs. McKenna from the PC caucus. Just before handing the floor over to the NDP, I'd just like, on behalf of the committee, to acknowledge the presence of former member of provincial Parliament Elizabeth Witmer. Welcome.

I now hand the floor to the NDP. Mr Natyshak.

**Mr. Taras Natyshak:** I'd like you to comment on some of the issues that Professor Arthurs touched on in his report and what some of his recommendations would mean in terms of the viability of the WSIB, going forward.

**Mr. Mike Grimaldi:** I certainly don't agree with all of Professor Arthurs's report. The indexation aspect of it I think is crucial. Injured workers should never have been de-indexed. That was a compromise that a former government made that, in my view, was a mistake. It doesn't seem to me that you try and cure funding problems on the backs of the most vulnerable people in society, and that's what was done. So I think all partial loss of earnings should be fully indexed.

I think that in other aspects, there are better methods of solving the problems than what Arthurs did, but I think that the Arthurs report in whole is a step in the right direction.

**Mr. Taras Natyshak:** I think you just proposed three measures that seem quite holistic, in terms of the three proposals that you put forward, and I would hope that we move this committee towards those types of proposals, although roadblocks tend to get in the way. I'm wondering if you could expand on some of the policies and potential policy directives that we aren't aware of that present some of those roadblocks. I think you referred to them as secret policies, internal directives that might not necessarily help.

**Mr. Mike Grimaldi:** This is not a secret policy, but I'll give you one example. When the changes were made when the loss-of-earnings benefits were first brought in, the board had to look at return-to-work. What they did when they looked at return-to-work—they looked at: How do we develop a program? They did a labour market re-entry assessment and they determined under that assessment how you could get back to work.

What they did is, they looked at: Can we return you to work with the skill set that you have, or do we need to re-train you? The goal was to look at: If we retrain you, how close can you get to approximating your pre-accident earnings? If not, is it cheaper—they called it more cost-effective but I called it cheaper—to stick you in a minimum-wage job somewhere and let you stay in that minimum-wage job for the rest of your life and pay you 85% of the difference, yada yada yada, for the rest of your life, rather than taking a longer period of time which might cost more in the short run but get you back to productive employment, real employment where it's a career, where you can be a productive member of society,

where you can be paying taxes, where you can be satisfied in your work?

It seems to me that policy doesn't make any sense from a societal standpoint. From a societal standpoint, what we should be doing is trying to get people back into productive work, into real jobs that they can be proud of, where they can support their families, rather than putting them into some kind of piecemeal benefit where you get a partial loss of earnings and a minimum-wage job. It doesn't make any sense to me, especially when you've got someone who has got a number of skills.

**Mr. Taras Natyshak:** Can you tell me more about injured workers that have chronic injuries that continue past the age of 65 but ultimately receive no benefits? What's the impact on that segment of workers?

**Mr. Mike Grimaldi:** We can tell you that both AI and I have handled cases where we've had members who have contracted occupational diseases after the age of 65. It has devastating effects. People who have to walk with oxygen tanks, people who are dying a slow, long death because of mesothelioma or asbestosis—their spouses are devastated. Many times, their spouses have to give up their own work because they have to help take care of them at home. Many times, where they have dependants who are still school age, it impacts their ability to get an education, never mind the relationships at home. Oftentimes they have grandchildren. As I said, they can't do things that most of us like to do with our—I guess you're too young—most people like me like to do with our grandchildren, where I can take them fishing; I can go swimming with them; I can play catch with them. Those folks have to give all of that up and, in return, get nothing. It just seems to be that it's not reasonable. In any kind of compassionate society, any type of society that we should be proud of, the province of Ontario wouldn't allow that to happen.

That impacts their spouses. What's happening now is, because of this interpretation of the legislation, a number of employers are going in and appealing spousal benefits so that the surviving spouse now gets their benefits that they've probably planned their life on significantly reduced, sometimes more than cut in half. That impacts on the quality of life that they have forever. Why would we be saying to people in the province of Ontario that, "Because you contracted an industrial disease, you don't get the same benefits, you don't get the same enjoyment of life that, if you were in a right-to-sue environment, you would have"? It just doesn't make any sense, and it's not fair.

**Mr. Taras Natyshak:** You've been around for a long time, Mike, in this game, and I'm wondering if you can measure the state of, specifically, the number of claims that go to appeals today, as in previous years.

**Mr. Mike Grimaldi:** I'll tell you, it's interesting, because the WSIB and some people in health and safety will brag that there's better health and safety and that claims have gone down. If you look at what's happening to manufacturing in the province of Ontario, of course claims, on balance, have gone down, not because any-



thing is any better, but because we've lost such a significant portion of our manufacturing—

**Mr. Taras Natyshak:** But the rate of workplace injury remains the same.

**Mr. Mike Grimaldi:** The rate, yes.

**Mr. Taras Natyshak:** Do you think that's a way to simply just kick the can down the road for a future generation to deal with those obviously undealt-with claims?

**Mr. Mike Grimaldi:** What they're doing, in my view—we've clearly found now that many workers have been poisoned in the workplace as a result of chemical exposures and workplace exposures, whether it has been asbestos or whether it has been other kinds: coal dust or byssinosis or whatever. Many of those claims are just coming home to roost, and that's going to be an ongoing problem down the road. What we're basically doing is, we're condemning those folks to poverty forever. We're saying, "Because you grew up in a workplace in the 1960s, 1970s and 1980s and you contracted an industrial disease that takes 25 to 30 years, your children and your grandchildren are going to suffer. They're going to pay the dues, they're going to pay the debt, because they no longer have"—whether it's a father or mother, a grandmother or a grandfather—there to help them further down the road in life because we've decided we're not paying those people benefits. In a civil society, I don't know how you can think that that's an acceptable way of going.

**Mr. Taras Natyshak:** In a modern society, regardless of its civility, you would think that we would have been able to ensure that people can go to work without exposure to processes and procedures that might kill them. How far away are we from that?

**Mr. Mike Grimaldi:** You're right. Unfortunately, when you look at situations like that, we've gone back to, under the old system, where those people would be rated on the basis of disability and would still get benefits based on their level of disability, and we're now taking those benefits away from those people. So we're going from bad to worse rather than trying to improve the system, which is the direction we should be going in.

**Mr. Taras Natyshak:** Thanks.

**The Acting Chair (Mr. Shafiq Qaadri):** There's one minute left for the NDP, should they wish to use it.

**Miss Monique Taylor:** Thank you very much for being here. It was raised earlier when you were talking about—I'd better be quick here—the underfunding and the funds that would be used in—sorry, I forgot the wording—

**Mr. Mike Grimaldi:** An investment pool?

**Miss Monique Taylor:** Investment pool; thank you.

**Mr. Mike Grimaldi:** We've had some of our members meet with Mr. Morneau, whom the government has got to review pension funds across the province of Ontario. They want to build a superfund. They're looking at apparently targeting between \$50 billion and \$100 billion in this super investment fund. It's our understanding that one of the funds they're looking at is WSIB. If that's going to be part of a superfund, then I don't

know how the unfunded liability even plays into this because this money is going to be off here somewhere. The government could probably speak to that better than I can, but that's our understanding of the direction that they're going in. That would mean that the pool of funds that are currently handled by the WSIB—whether it's handled properly or not is a different question, but it's my understanding that it's going to be part of this super investment fund that they're creating.

**The Acting Chair (Mr. Shafiq Qaadri):** Thanks to you, gentlemen, for your deputation on behalf of OPSEU.

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## OFFICE OF THE WORKER ADVISER

**The Acting Chair (Mr. Shafiq Qaadri):** I now invite our next presenters to please come forward, from the Office of the Worker Adviser: Mr. Farquhar and Ms. Trower. Welcome. Please be seated. Your time officially begins now.

**Mr. Alec Farquhar:** I very much appreciate the chance to meet with the standing committee. I'm Alec Farquhar. I'm director of the Office of the Worker Adviser. With me is Cindy Trower, our general counsel. We both have long experience advising and representing injured workers.

For the presentation in front of you, the whole first part is background on the OWA. Given the time, we're going to get pretty well right into the issues, but I did want to highlight a couple of the slides.

The first one is background on the system. We're almost to the 100th anniversary of our workers' compensation and workplace insurance system in Ontario. It has been mentioned a lot that workers gave up their right to sue. It was a valuable right; employers gained a valuable benefit. So we really do come from the perspective that we have a valuable system, but obviously it has problems that need fixing, and we want to play a constructive role in helping fix those problems.

The next slide describes our position in the system. We're part of a co-operative set of agencies, including the Office of the Employer Adviser, the Workplace Safety and Insurance Appeals Tribunal, the board. We really try to work together to make this system work properly, and we're all paying a lot of attention to the deliberations here to learn from them.

The rest is background on the OWA staffing, our budget.

I want to highlight our partnership role and just give you a couple of examples of how we work with others to try to make things work best for workers and employers in the province. This has to do with partnerships for those who are perhaps most in need. One example is our FAIR project. It's a partnership with the board, Threads of Life, which is a families' organization, and MOL to respond to fatal injuries immediately, compassionately and in the most supportive, coordinated way possible. We have a similar kind of partnership to respond to workers in crisis, some of whom you've heard about today: people



who are just at wits' end, perhaps losing their housing, perhaps thinking of suicide. Of course, for you here on the committee, we've got some specific partnerships with MPPs, with your constituency offices and a lot of collaboration on helping those very workers.

Now as we get to the issues of the day, I'll turn right to our slide 6, page 6. We want to focus on three key areas: initial decision-making and reconsideration, the appeals backlog and consultation, and the policy consultations.

First of all, initial decision-making and reconsideration: We do see some uneven quality of adjudication decisions, some very good, perhaps some not as good. In these situations, it's really important to get to the root of the problem, and we've got a really good collaboration with WSIB looking at the front line for best practices, where we share the best of what we see, and they share the best of what they see; for example, how to write a good letter to a doctor and how to get a good report back. That's so vital to determining whether something is work-related or whether it isn't. We've had a lot of good dialogue with WCB on that issue.

There have been a lot of comments about a more restrictive approach to entitlement. What we're recommending is that during this policy consultation phase, it is really important to stick to the published policies. Remember, inside a big organization, someone may have a training document or something else that they rely on to adjudicate a claim. It doesn't really mean they're keeping it secret, exactly, but it may not be the official policy. So we've worked a lot with the board to identify what's official policy, what's perhaps a little bit unofficial and how to ensure that the official policy is followed. There has been a lot of work on that. I think it was mentioned that a while back a lot of documents were put on the website.

We're concerned about the broad use of the reconsideration authority. When this act was brought into play almost 100 years ago, it did have a right by the board to reconsider its decisions. It was never really meant that the right would be used lightly, and at our appeals tribunal we've had a lot of jurisprudence on how this authority should be used. We believe it should only be used in compelling circumstances, not simply when someone looks at a case differently a little bit later on and might disagree with the initial decision-maker.

I'm going to go on to the issues around the appeals backlog and consultation. We do have an appeals backlog in our system. It's around 5,000 cases. I want you to be confident, as members of the Legislature, that a lot of really good work is going on to reduce and deal with that backlog. We at OWA are very, very involved with that. We're in collaborative discussions with the WSIB. We're taking a look at our 700 cases in that backlog and trying to figure out which ones can go back on a reconsideration, which ones might go quickly through the system by written submission, and which ones need a hearing. We've had a lot of co-operation with the board back and forth on that and we're hoping to move hundreds of cases

through this and deal with that backlog in a constructive, effective way.

In the longer term, we're going to comment on just a couple of the issues in the consultation. First is the proposal to get stricter on the appeal time limits. We think that if that is to be done, there needs to be a sort of escape clause for the more vulnerable workers, especially the new immigrants who just don't understand the documents they're receiving and might miss an appeal time limit. We're looking for continuation of that flexibility, and I think the board is listening to us on that matter.

You've heard a lot about the issue of downside risk. I sat here all day yesterday and through the morning today. Downside risk is about reopening your whole case when you bring it forward for appeal. I think it's really dangerous territory. No one is going to take away the authority of the board to reconsider its decisions; on the other hand, to say to somebody, "Sign this form before you appeal, acknowledging that you know your whole case might be reconsidered"—that's an enormously serious thing to ask someone to do, and we don't think it's necessary to go quite that far. We think that the policies are already there. People know there's a downside risk in certain situations. Skilled representatives know when to advise a client, the same as in a criminal case. If you appeal a sentence—they gave you one year. If you appeal, you know that you might get two years. That's a downside risk that everyone is familiar with. On the other hand, to look at potentially losing your whole claim is another matter. So we're recommending that we continue the current approach, which would allow the board to take a look at the case anew, but really to advise the worker when they're going to do that rather than getting them to sign off in the first place.

I'll turn very briefly, as I finish off, to the issue of the policy consultations. We've learned a tremendous amount in the last year on how to do consultations right. The Arthurs review, I think, was a model of transparency and engagement. The Jim Thomas review for policy consultation is shaping up similarly. I think both workplace parties are going to find their voices heard and responded to.

We want to acknowledge some areas where the board has made progress. I'm quite willing to speak to these in the discussion period. A lot of you won't have heard of their stigma initiative. That's an initiative where they've tried to identify negative stereotyping of injured workers and made their staff aware of how to avoid these.

Bringing labour market re-entry back inside the board has been a tremendous step forward. It means that we can deal so much more quickly with the return-to-work issues than we were formerly able to.

I know there has been a lot of discussion of the coverage to independent operators. We see the most vulnerable of them as people who aren't really independent operators; they're under the control of the employer. They're called an independent operator on paper, but they really are subject to an employment relationship. In those kinds of situations, we really do need the protection for them.



So I just wanted to sort of counterbalance that, but I was listening a lot to the discussion around who's covered and who's not. I think there are a lot of important areas there that the board is addressing in the policy development process, and I think we'll come out with a balanced approach.

1350

Finally, I guess to finish off: In a situation that maybe is quite polarized sometimes between employers and workers, how can we move forward together? I'm involved in some exciting work around joint return-to-work with a major employer that I'm glad to talk to you about. Return-to-work is an area where employers and workers can really co-operate effectively. If we can get it right, we'll save money and we'll really improve people's well-being. So I'm urging that, if you're making recommendations, co-operation and return-to-work.

Protecting the vulnerable: The chair, Elizabeth Witmer, spoke yesterday about this. We share in that concern. We've got a mandate to protect vulnerable non-union workers, and we'll certainly keep doing that. We're really going to focus on helping the board work on improving initial adjudication quality and working on the appeals process changes. A lot of good can come from that if we can have better, quicker, more effective dispute resolution.

I'll stop there. Whatever questions you wish to raise, I'll be glad to deal with them. Probably Cindy and I will trade off some of those questions.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you. To the PC caucus. Mr. McDonell.

**Mr. Jim McDonell:** Thank you for coming today. Somebody talked yesterday about the transfer of funds from the WSIB to the Ministry of Labour for accident prevention. Do you have any more information about that—what the amount is and what the benefits back are?

**Mr. Alec Farquhar:** I really think the detailed question is for the board. I can say in general that Bill 160 transferred leadership for prevention from the board to the ministry, and I know that funds flowed. I am in a special position because, until last month, I was the managing director of one of those health and safety associations, the Occupational Health Clinics for Ontario Workers, and our budget shifted over. I can assure you, it was a revenue-neutral operation. Our budget at OHCOW did not increase. I only really know about our budget. Overall, I believe it was revenue-neutral. I don't think people should be worried about great additional costs. A lot of attention has been paid to that aspect, but in terms of detailed dollars and cents, it's probably better to get that from the board.

**Mr. Jim McDonell:** Just to follow up, we've heard a lot of sad cases of events here, and it's always tough when you're trying to balance benefits and paying for them, especially in today's climate, where there's always a lack of money. Do you have any improvements that you could see coming through the system, or anything that jumps out, other than, I guess, spreading the pool, because we've heard that before? If you do that, then

really you've got this unfunded liability, and who should pay for it? Is it the people who haven't been involved before? Or maybe the province in general should fix the system and then start ahead.

**Mr. Alec Farquhar:** What you've had in front of you yesterday and today, especially starting with Professor Arthurs—I think it's a really balanced approach. Workers and the worker community weren't enthusiastic about every single one of his recommendations, but I think they saw it as balanced. My impression is that certainly a lot of employers who engaged found that the process was one where they were really listened to. So I think we've come with a balanced approach. There are several aspects of it that are really important. One is long-term versus short-term. I think it was mentioned this morning by the home builders' association: A longer-term approach puts less pressure on, year-to-year. I think that's an important element of it: a gradual approach, a sense that it's not a crisis that needs to be solved today or tomorrow, but to head in the right direction. We don't want to load too much on today's economy.

I really want to emphasize with the committee members that primary prevention has enormous potential to save money. I don't know if you know this statistic, but I'll put it in front of you: Cancer Care Ontario estimates that 500 workers every year in Ontario are dying from historical asbestos exposure—150 mesotheliomas and around 350 lung cancers. Think of the burden on our health care system. A lot of those aren't compensated by workers' compensation because we can't really prove the origins of everything. These are epidemiological estimates. If we can prevent similar exposures in the future, we're going to save a lot of lives. I can say to you confidently that a lot of work is being done on the prevention front to do that.

The other area where we can save a lot of money is return-to-work. I'll speak to that very briefly. The Niagara Health System is a very big health care employer in the peninsula. They've been troubled; it's been well known in the media. They've launched a really innovative partnership with their unions—ONA, OPSEU and SEIU—very well supported by the employer, where they're training everybody in better return-to-work: their supervisors, their union folks. They're having some real success getting people back to work, and guess what? Their costs are going down. That's because both parties committed to work together, and there's a submission that will be in front of you from the nurses' association detailing that. If we could replicate that success story in a lot of other sectors and workplaces, especially small and medium-sized business, we will make a lot of progress.

I can tell you, from yesterday's report, the board has switched its resources around so they're getting at this issue. They're getting folks into workplaces—I think they mentioned 23,000 workplace visits by their 300 return-to-work staff. These are big changes, and if we can, on the part of politicians and those out in the employer community as well, galvanize that kind of commitment to getting the workers back to work, we're going



to see some really big, positive changes. Remember, the costs of workers' compensation are partly the initial injury, but they're partly the delay in return to work and the problems with it, the duration issue, and we're getting at those.

Also mentioned yesterday were the changes to health care. There are some really promising changes happening there to get the doctors understanding better the needs of the injured workers and of the employer and fitting it all together better. Right now, the doctors are sort of distant and may not be fully knowledgeable about how they can help the most.

**The Acting Chair (Mr. Shafiq Qaadri):** Mr. Pettapiece.

**Mr. Randy Pettapiece:** Thank you for this report. It's quite good, and I've been very interested in what you've had to say as to what you want to see done.

I'm interested in the coverage to the independent operators section here on page 6, in construction. Independent operators can be people who build 100 homes or two homes a year; it's the same classification. I guess Bill 119 is going to put a lot of pressure on especially the smaller guys who are going to be required to—it's about \$11,000 average, they figure, on a small operator, in WSIB benefits. I worry about the pressure on these guys and the result of the pressure to our economy. Where I live is a very rural riding, so you have a lot of contractors that don't do a lot of big business; it's just a small custom-type thing like that, and they're going to be required to spend a lot of money on this, even if they have their own insurance policies. I wonder if you could comment on that as to maybe we should have another look at it.

**Mr. Alec Farquhar:** The issue of coverage for independent operators: It's a really long-term issue in workers' compensation and workplace insurance. It goes back decades.

Generally speaking, in the jurisdictions across Canada—I've studied it a little bit. I can't say I'm an expert right now, and there are folks from the board here who know a lot more about it than I do. Generally speaking, there's been a push to protect the front-line workers, the front-line independent operators that were exposed to the risks of construction and other sectors. Those front-line workers sometimes are true independent operators. The ones we encounter at the Office of the Worker Adviser are very often not really true independent operators. They're what we'll call dependent contractors, people who on the books are independent but in reality they're workers. It's simply that on the books there has been some kind of agreement signed that perhaps they're not officially workers. So a lot of us who've pushed for this coverage have really been focused on those workers.

The discussion this morning was getting into areas I'm not quite as familiar with. I know that the pricing of insurance coverage can take into account the various other coverages. So there may be some solutions in there that

would get the other insurance they have perhaps reduced in exchange, but I'm not an expert on that.

In terms of the burden on people who aren't really working at the front line, that the fellow from the home builders was mentioning, my impression is that some of those issues are being dealt with in the consultation. There are policies developed or being developed. Probably when the board appears, maybe today or maybe later in writing, there could be commentary on that. I'm not familiar in detail with the policies. But the overall objective of protecting the front-line people—I think it does have to be brought into the balance here, because at OWA we encounter a lot of people on the books as independent operators. They get hurt, sometimes very, very seriously, and then we, in a sense, have to see if we can fit them into the system. Sometimes we succeed; sometimes we don't.

I'll just give you one example. A worker is operating a lathe with 30 other workers in a machine shop. One day, they ask them all to sign papers. Later, they find out all 30 of them have become corporations and they all own their lathes. The worker comes to us because a piece of metal goes off the lathe into his eye and essentially blinds him in one eye. Under law, we were able to show he was a dependant contractor and therefore should have been covered as a worker, but sometimes the arrangements are a little bit different and we're not able to show that.

1400

You can see there that he probably never really intended to buy the lathe and rent the space from his old employer. It was more of a strategy to avoid cost. Then, somebody else might be in a different situation and not be working at the front line. I am sympathetic to some of those situations, and I think balancing it out somehow is the way we have to go.

**Mr. Randy Pettapiece:** There can be games played, and I understand that, but I'm just worried—our economy is quite fragile right now—that we don't go around too much with it and—

**Mr. Alec Farquhar:** Yes. Let me throw another issue at you that might help with this—

**The Acting Chair (Mr. Shafiq Qaadri):** I'll need to intervene there. Thanks to the PC caucus.

To the NDP: Mr. Natyshak.

**Mr. Taras Natyshak:** I'm going to allow you to finish your thought there, because I think I know what it is.

**Mr. Alec Farquhar:** Okay. I'll just finish that short thought. Right now, we have a review of incentive programs that's coming when Professor Arthurs is finished and has made his recommendations. I'm certainly favourable to incent a program review that starts rewarding the employer for meeting recognized international health and safety and environmental standards that give them a competitive advantage.

One simple example: If you want to export goods from Ontario to the European Union, you have to comply with something called REACH. REACH is about chemical hazard management. It's a big EU program. Their borders are closed to manufacturers who don't comply.



Some Ontario manufacturers have complied, and therefore they can still export to the EU. I'd really like to see our incentive programs linked to efforts that support employers in meeting these standards so they can then put sort of like an ISO 18001 or a CSA Z1000 label on their goods. Then they've got a competitive advantage—and they haven't just paid their money to comply; they're getting some recognition that helps them compete in the global economy.

Solutions like that might really help both parties, and I'm sure the workers working for those companies would love to help their employer comply, because they know they can export those goods to the European Union, so it's a win for everybody. That's one solution, anyway.

**Mr. Taras Natyshak:** There you go. Did you get your answer, there, Randy?

*Interjection.*

**Mr. Taras Natyshak:** You're welcome.

I'd like to talk about the operations of the Office of the Worker Adviser specifically. My mom used to work at the Office of the Worker Adviser in Windsor. As well, she processed and helped a lot of injured workers as a constituency assistant for my predecessor Pat Hayes. So I've sort of been around your operation and known about it for quite some time. As well, my office relies on our regional worker adviser office from time to time, actually. But more and more, they're unable to deal with the amount and volume of claims that are coming in. I'm wondering if you can speak to the need for more of these types of organizations and supports that are offered to unrepresented workers.

**Mr. Alec Farquhar:** I think maybe Cindy should speak to that, because I just took over three weeks ago and she was acting director for about a year and a half and, I think, knows a lot more about the resource space.

**Ms. Cindy Trower:** Okay. Well, in terms of the Office of the Worker Adviser, I think historically—and Alec would probably know more about the historical piece than I do because he was with us a long time. But generally speaking, our demand always outstrips our resources. We've had to employ various measures in order to focus our resources on the most vulnerable and the most needy.

We do that in a number of ways. We do it by what we call "selecting out" some more simple issues. That's one of the ways that we do it. We tend to focus our representation service on the more complex rather than the ones that are worth a lot—there's a lot at stake for the worker. We also do a case review before we agree to represent, so we look at whether or not there is sufficient evidence for us to proceed to an appeal. That occasionally does leave some workers going out on their own—quite a number of workers, actually.

In most cases, we're trying to take on the ones who really have a case to take forward. But those are two of the main ways in which we've had to address the demand. The most difficult one is where those measures don't allow us to meet that more selected demand and we

have to put people on a waiting list. There were times when we had very, very large waiting lists.

At the end of our fiscal year, which ends at the end of March, we had 110 cases province-wide. We have 15 offices across the province, so most of our offices did not have a waiting list, but about half a dozen did, and I think the average wait time was around two months. That's a bit of a picture, just having recently looked at some of the statistics for the last fiscal year.

**Mr. Taras Natyshak:** Just for the record, I would like to thank you for the work that you do. Unfortunately, it's incredibly necessary in today's environment as the incidences of workplace injury and accidents and deaths continue to remain steady.

I'll pass it to my colleague.

**The Acting Chair (Mr. Shafiq Qaadri):** Miss Taylor.

**Miss Monique Taylor:** I would like to thank you also on behalf of the work that the Hamilton office does on behalf of our injured workers because I know that my office uses your resources quite frequently, so I appreciate that.

I understand that the OWA represents non-unionized employees, many who are very vulnerable. Can you give us an idea of some of the circumstances that these vulnerable employees face?

**Mr. Alec Farquhar:** We use the term "vulnerable workers" to refer to the situation people find themselves in where they don't have much power in the work setting. That tends to be new immigrant workers, young workers, migrant farm workers or other temporary foreign workers, but it also includes people who have a contingent attachment to the workforce, somebody working for a temporary agency.

I'm going to hand it back to Cindy in a second because we have a new mandate to protect workers regarding reprisal for health and safety.

On the workplace insurance end, we're dealing with a lot of people who may be a little bit afraid or unaware of their rights, and we do a lot of work to encourage them to understand their rights and then we try to bring forward their cases. That means dealing with them in their native tongue. It means going to where they live for local clinics and other kinds of contacts, rather than just where we have an office. We do a lot of outreach and we work a lot with partners in the community, with MPPs' offices—lots of different ways that we make ourselves more accessible.

Knowing the time pressure here, I'll ask Cindy to comment a bit on our new mandate, just since April 1, to help people who may be the subject of a reprisal for exercising health and safety rights.

**Ms. Cindy Trower:** Coming out of the expert panel report on occupational health and safety, the Tony Dean report, there was a recommendation that non-unionized workers with health and safety reprisal complaints have access to services similar to those that the Office of the Worker Adviser provides to injured workers and survivors. Through Bill 160, we were provided the mandate to



provide that service. We started providing that service on April 1 of this year. It's actually very busy. We have two full-time representatives and one support person. As general counsel, I manage that program, as well as a small legal group that supports the workers' compensation work.

Non-unionized workers—I think Alec outlined that the most vulnerable of them, but in fact many workers, even ones who have been employed for some time, are vulnerable as well. We have workers from all walks of life, sometimes people who were unionized and their plant closed and now they're out of work and they're eligible for our service.

1410

**Mr. Taras Natyshak:** Have you received additional resources to facilitate that?

**Ms. Cindy Trower:** For the reprisal program, we did receive additional resources. Those three positions were in addition to our regular budget.

**Mr. Taras Natyshak:** Three positions to—

**Ms. Cindy Trower:** To provide the health and safety reprisal program.

**Mr. Taras Natyshak:** For the entire province?

**Ms. Cindy Trower:** For the province, yes, out of the Toronto head office.

**Mr. Taras Natyshak:** The province is bigger than just Toronto.

**Ms. Cindy Trower:** Indeed. Well, we have helped people from across the province.

**Miss Monique Taylor:** One of the issues that I know that you deal with often is occupational disease. How do you feel that the board is doing with the occupational disease cases and what do you feel it could do better?

**Mr. Alec Farquhar:** I know we're running under time pressure here and I'm glad to respond. It might take just a tiny bit longer. So I don't know if—no?

**Miss Monique Taylor:** How long have we got?

**The Acting Chair (Mr. Shafiq Qaadri):** Six seconds.

**Mr. Alec Farquhar:** Six seconds? Making a lot of progress, and I'll speak more if there's a chance—

**The Acting Chair (Mr. Shafiq Qaadri):** Two seconds. Thanks to the NDP.

To the Liberal side: Ms. Albanese.

**Mrs. Laura Albanese:** Thank you for your presentation. For us, it's been an opportunity to learn more in detail about the work and the valuable assistance that you give to workers throughout Ontario. Thank you very much for that.

I had a few questions; specifically, if you could elaborate on how you help workers who may not speak English or French. Do you have translation services?

**Mr. Alec Farquhar:** First of all, remember that we're often dealing in situations where it's a formal setting, so it might be, for example, that the board or tribunal would provide an interpreter. And the board has quite an elaborated system inside where sometimes, when we're dealing with a worker who doesn't speak English or French, we've got access to someone inside the board's staff who can help. So sometimes it's not us having to

find that; it's already provided in the system. When we have to deal directly, we have a lot of language skills on staff. I speak fluent Italian, myself, just for example.

**Mrs. Laura Albanese:** Bene.

**Mr. Alec Farquhar:** Lo parlo bene. I could do this hearing in Italian if you wanted me to. Therefore, we have a lot of people who speak a lot of different languages. If, for example, a worker adviser dealing with somebody doesn't have that specific language, we have internal resources and, where necessary, we retain them externally.

We also deal a lot, as probably a lot of you do, with the family members, and often a child or a relative is in to help translate. I think we do a pretty good job. We're pretty accessible, and the system, as a whole, has proven very responsive through the years to workers who don't have English or French as a first language.

**Mrs. Laura Albanese:** Do we also do outreach to workers who are not unionized?

**Mr. Alec Farquhar:** We do a lot of outreach. As Cindy mentioned, we have to be really careful about how we allocate resources so that we don't do sort of broad-brush outreach. What we tend to do is to try to work with community organizations, MPPs and others, to reach the specific populations for the specific issues where we can be of the most help. Cindy could comment further on this, but in the reprisals work, as it's just getting started, people may not understand fully what we do and what others might do, so we want to make sure we're not doing too much broad-brush outreach.

I'll give you one example. After church in the Korean community, we used to go and talk to people about exposure to dry cleaning chemicals—by the way, both the small business people and the workers. That was a practical kind of setting where they felt comfortable talking about it. But we wouldn't probably do a whole big outreach in a community advertising our services because it would likely attract a lot of work we wouldn't be able to do. I hope that's sufficient.

**Mrs. Laura Albanese:** Do you deal with any migrant workers?

**Mr. Alec Farquhar:** In my previous job at OHCOW we had clinics for the migrant workers and we had active relationships with OWA and the legal clinics where, if a case came forward, they would handle it. In our case, we would tend to receive those referrals through a network or some other community contact. OWA doesn't have an office or a presence down in farm country, per se. It would have to come through someone who knows that farm worker. Some of you may be familiar that church organizations and other community organizations bring the workers forward.

By the way, as an agency of the ministry, we don't just help the vulnerable workers. We've got a lot of services for their employers, for the small businesses that employ them, for the farmers. It's meant to be a comprehensive service for prevention—in our case, for workplace insurance. We're really trying to help everybody get through the complexities of the modern world.



**Mrs. Laura Albanese:** Within your deck here, on page 7, under “Appeals Backlog and Consultation,” one of the issues that you identify is the downside risk proposal. I wonder if you could talk a little more about that.

**Mr. Alec Farquhar:** That was discussed a little bit over the last couple of days. “Downside risk” means that when you appeal something, you may lose something you already had entitlement for, roughly speaking. I’m fully recognizing that in any legal context, you can’t just appeal and expect to get more; sometimes when the court or another body reviews your situation, they may find that you just get the same or even less.

In a criminal law context, if I appeal a sentence—I’ve gotten a year, and I want to get it down to six months, then the Court of Appeal says I’m going to get two years. Every lawyer knows you must advise your client that the issue is quantum of sentence, and therefore it could go up or it could go down. That’s the kind of downside risk people are familiar with.

The proposal the board currently has on the table takes it a step further and says, “We need you to sign, as you launch your appeal, that you acknowledge the downside risk, and it doesn’t just extend to the issue you’re appealing; it could extend to any of the issues in your case.” We think that’s taking it a bit too far. We’d rather see the principles around downside risk and reconsideration enshrined in a guidance document that could be made available to everybody but not made a requirement for when you launch your appeal. That’s the concept we’re working from now.

**Mrs. Laura Albanese:** So if I’ve got this correctly, this provision is already in place; it has always been like this. It’s not one of the proposed changes. It’s just that now—

**Mr. Alec Farquhar:** It’s formalizing it.

**Mrs. Laura Albanese:** —in the changes, you’re asked to sign and to acknowledge that beforehand.

**Mr. Alec Farquhar:** That part is new. It does have a chilling impact on the worker because they’re afraid that if they appeal, they might lose everything. It’s not really meant that way. It’s about reconsideration. Nevertheless, it can have that kind of impact, and we don’t think it needs to go that far.

**Mrs. Laura Albanese:** Thank you for that clarification.

**The Acting Chair (Mr. Shafiq Qaadri):** Any further questions from the Liberal side? Then I will thank the Liberal caucus. Thank you, as well, to the Office of the Worker Adviser for your participation.

#### COUNCIL OF ONTARIO CONSTRUCTION ASSOCIATIONS

**The Acting Chair (Mr. Shafiq Qaadri):** I’d now invite our next presenter, Mr. Cunningham of the Council of Ontario Construction Associations. Mr. Cunningham, welcome. Please begin.

**Mr. Ian Cunningham:** Thank you. My name is Ian Cunningham. I’m the president of the Council of Ontario Construction Associations, otherwise known as COCA.

COCA is a federation of 30 construction associations whose more than 10,000 member contractors operate in all regions of the province as general contractors and trade contractors in the industrial, commercial, institutional and heavy civil side of the construction industry. COCA serves as their voice on matters of provincial public policy. COCA is the largest and most fully representative advocate for the non-residential construction sector in Ontario.

Since the time of its genesis in 1975, COCA has maintained a central interest in WSIB matters, and over its 37-year life has worked constructively with the WSIB and the Ministry of Labour in pursuit of a workers’ compensation system that’s fair, equitable, stable and sustainable and which supports a competitive Ontario economy.

I’m pleased to be here this afternoon to provide the views of COCA’s membership with regard to the Ontario Workplace Safety and Insurance Board. In general, COCA is very pleased with the very significant organizational transformation that’s under way at the WSIB, which is being most capably led by its president, David Marshall. I’m sure you’ve heard already from the WSIB at these hearings that, among other things, in 2011 the WSIB achieved its best operating results in 10 years. For the first time since 1997, the organization did not have to draw down its investment fund to help cover operating costs, and fewer lost-time claims were registered in 2011. And I’d like to correct the record that over the last 10 years, the rate of injury has been approximately halved.

#### 1420

Workers are recovering from their injuries more quickly and returning to work sooner. The total benefits costs are on a two-year decline and the WSIB is finally learning to properly and accurately price its product so that premium revenue is coming into line with costs. These are impressive results indeed and provide the evidence for COCA’s support.

Allow me to highlight some principles that help guide COCA’s thinking with regard to the province’s workers’ compensation scheme:

(1) Ontario’s workers’ compensation system must be financially sustainable and positioned to meet unforeseen negative events such as drastic declines in investment income or unanticipated sharp increases in claims.

(2) Premiums must be paid on behalf of every worker who qualifies to receive benefits.

(3) The program of benefits available to injured workers must be comparable to those of other jurisdictions.

(4) Employer premiums should be the lowest of all Canadian jurisdictions.

(5) Policies guiding WSIB practice must be clear and applied evenly and consistently.

(6) Administration must be efficient and modern, similar to those of other similarly sized compensation organizations.



(7) Importantly, operations must be open and transparent for purposes of accountability.

With regard to the first principle, a sustainable compensation system, while the current financial state of the WSIB is extremely weak, we believe the organization has put itself on the track to financial sustainability. The WSIB's strategic plan for 2012 to 2016 identifies sufficient funding as one of the five major themes, and the current senior management appears to have the rigour, discipline and commitment to restore financial stability.

In addition, the recently released report, *Funding Fairness*, provides some thoughtful recommendations on how to get there.

The second principle speaks to the free riders in the system, those who don't pay premiums but who make claims when injured. There should be no room for free riders in the system.

The third principle speaks to the benefit levels. Ontario's array of benefit levels is certainly comparable to those of other jurisdictions.

Despite the fact that WSIB premiums are currently among the highest among Canadian compensation systems, we believe that Ontario's rates can, in time, be the very lowest. Ontario already has the lowest cost of new injuries; administration costs are in line with other jurisdictions and are improving as operations are modernized; and investment returns should be less volatile in the future as the WSIB transitions to a new investment strategy. Once the unfunded liability is eliminated, Ontario will be well positioned to have the very lowest premium rates of all Canadian jurisdictions, and our workers' compensation system will serve as a competitive advantage for the province in attracting new investment and new jobs.

With regard to clear and understandable policies, the WSIB has introduced a policy renewal framework to guide the review and updating of all its major policies every five years. A consultation secretariat has been established within the board to support stakeholder consultations in the renewal process. The first review under the framework recently got under way and an independent chair was engaged to lead it. We're hopeful that this important process will lead to clear policies with guidelines that support their consistent application.

The WSIB has made significant strides in modernizing its customer-facing operations. In particular, it has introduced a suite of e-services, including e-registration and e-clearance, that provides employers with easy access to WSIB services 24/7. I like to say that WSIB has finally embraced the 1990s.

It's in the area of transparency of its operations that I must give the WSIB considerable credit. COCA, as well as many other employer and worker organizations, participates on the chair's advisory committees, the WSIB's primary stakeholder relations conduits, where the WSIB seeks early-stage feedback on important new initiatives.

In addition, members of the WSIB's senior management team have made themselves available, whenever requested, to attend meetings of COCA's own WSIB

committee and our board of directors' meetings to provide updates.

Also, we were particularly impressed with the openness of the funding review led by Professor Harry Arthurs, and we understand the process he used will also be used by the WSIB's consultation secretariat in its policy review and renewal work. This captures in a general way our thinking regarding the WSIB.

A very important and exciting organizational transformation is well under way, and COCA expects to play an active role, working with the WSIB and other stakeholders to help chart the new way forward.

Among the recommendations we would make going forward are the following:

(1) The WSIB must adopt a contemporary model of governance, where directors are selected according to a matrix of competencies and expertises that are required for the board of directors to conduct its work effectively.

(2) An Arthurs-style comprehensive review of costs must be undertaken to ensure that injured workers are compensated fairly and appropriately.

(3) Consideration should be given to transferring oversight of the WSIB from the Ministry of Labour, an organization principally responsible for the development and enforcement of health and safety policy and labour relations policy, to the Ministry of Finance, which is better equipped to monitor a large, complex financial organization such as the WSIB.

(4) Cost-based experience rating must continue to be an integral element in WSIB pricing. Experience rating refines employer premiums. It adjusts for the lack of perfect homogeneity within risk classifications.

(5) The ongoing government practice of increasing benefits without consideration for their funding must be stopped.

(6) Many occupational disease claims are multifactorial. In addition to workplace causes, there may be exposures outside the workplace, environmental causes, lifestyle causes and genetic predispositions. In such cases, COCA believes that costs must be apportioned according to workplace and non-workplace causes, such that the WSIB assumes the cost for the cause determined to be workplace-related and the public health care system compensates for the portion that is non-workplace-related.

(7) The WSIB's safety groups program should be continued, at least and until the Ministry of Labour's prevention office introduces a successor program.

(8) Consideration should be given to eliminating the 72-month lock-in of benefits.

(9) Further consideration should be given to a waiting period before WSIB benefits kick in, during which time injured workers would continue to be compensated by their employers.

(10) The WSIB must be encouraged to publish its quarterly and annual financial results in a more timely fashion. Here it is July 5, and the 2011 statements have not been made public yet.



Thank you for your attention. I would be pleased to take questions.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you very much, Mr. Cunningham. To the NDP side: Mr. Natyshak.

**Mr. Taras Natyshak:** Thank you very much for your presentation. You opened up with the accident claims number decreasing. It may be that the actual claims receiving approval have decreased. However, I would argue that the number of workplace accidents overall and incidences of workplace injury overall have not decreased. As well, we do know statistically that deaths due to workplace accidents or illness are on the rise in this province. That statistic you can find readily available.

I'd like to talk about the "free riders." That's a term that is being used in the debate across the border, south of us, in the United States with Obama's health care legislation. I'm wondering if you can make some correlations there. We're talking about specifically involving worker groups that aren't included in the board or under the purview of the regime to actually be mandated to participate. What are your thoughts on that?

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**Mr. Ian Cunningham:** I wasn't addressing the idea of expanding coverage beyond those industries that are defined in the act. I was speaking about individuals who claim benefits, who are operating in a WSIB-covered industry, who are not contributing—

**Mr. Taras Natyshak:** How do you propose that we ensure that they are encompassed into the regime? What mechanisms or resources would you put into place to ensure—

**Mr. Ian Cunningham:** Better enforcement, better auditing—just ensuring that everyone working in the covered industries, that premiums are paid for them.

With regard to your comment about deaths, I'm a member of the provincial section 21 committee, and every month one or two deaths in the construction industry are reported at that meeting. Comparing Ontario's construction industry to others, our record is certainly among the very best, if not the very best. Still, this is certainly tragic, and there's lots of work to be done. I certainly agree with you there.

**Mr. Taras Natyshak:** Let's talk about that work. How do you feel about the transfer of responsibility for accident prevention to the Ministry of Labour from previously under the purview of the WSIB?

**Mr. Ian Cunningham:** We supported it.

**Mr. Taras Natyshak:** Are you working with the Ministry of Labour in that regard?

**Mr. Ian Cunningham:** Yes. We've met fairly frequently with staff at the secretariat. In fact, one of my former staff members has been recruited to be a staff member at the prevention secretariat. We've met with Mr. Gritzotis and his senior staff members regularly, and tried to assist in every way we can in that transfer and getting them up to speed. As you're probably aware, they've had a number of consultations. Currently, there's a consultation on the supervisor's awareness workbook

that was recommended in the Dean report, and we've provided feedback on that. So yes, we supported it in Bill 160.

Prevention was kind of an add-on to the Workplace Safety Insurance Board. I don't mean to discredit anybody who was there in the past or any of the past initiatives, but I think there were serious challenges on the insurance side of the business.

This allows the WSIB to focus on the compensation side of the business and put prevention over in a separate place where it gets a senior leader's full attention and resources.

**Mr. Taras Natyshak:** How vital a component do you think that is to the overall system, in terms of the viability of our compensation system and as a proactive, holistic approach? We're looking at all these segments here: the liability, the remuneration, the compensation, the legislative aspects. But ultimately, as my colleague Mrs. Cansfield presented, we have to get back to a comprehensive regime of prevention and safeguarding every worker in every industry. Is that not the ultimate goal?

**Mr. Ian Cunningham:** As in our health care system, in workplace accidents, injuries and sickness, prevention efforts are critical, absolutely. As you know, the health and safety associations are supported by WSIB premiums.

**Mr. Taras Natyshak:** One of the reasons I was able to have a career in construction and literally escape unscathed is because of the massive amount of training that I had through my union. I hold certifications in almost every aspect of construction that you can imagine because they were free to me and they were in-depth and well-nuanced. I took pride in not only knowing them but being able to actually advocate for safe processes on the job. What happens to industries that don't have that type of access to those types of training modules?

**Mr. Ian Cunningham:** All construction companies, whether they're participating in the WSIB or not—and they should be—have access to the Infrastructure Health and Safety Association. The biggest challenge is preaching to the non-converted. Typically at meetings at the Infrastructure Health and Safety Association, which deals with construction prevention initiatives, you do find those who are strongly committed. I think there's a number of typically smaller contractors that don't belong to their local mixed trade association, don't belong to their trade association and don't get the message.

**Mr. Taras Natyshak:** And can we do a better job on that front?

**Mr. Ian Cunningham:** Absolutely. We've got to find ways of reaching these people.

**Mr. Taras Natyshak:** Okay.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you. Three minutes.

**Miss Monique Taylor:** Thank you for your time today and being here with us.

I know you mentioned the underfunded liability. What are your thoughts on how to—first of all, does it bother you? Do you think that it needs to be 100% funded? The



Arthurs report talked about 60% and the tipping point. What are your thoughts on it?

**Mr. Ian Cunningham:** We supported 100% funding through the Arthurs review. We wondered if he would recommend 100% funding and we were pleased that he did; 100% funding is the conclusion that every other compensation system across Canada has. Most of them are much closer to 100% funding than we are. Consequently, they have much lower rates than we do. If we didn't have this charge against the unfunded liability built into employer premiums, we would have the lowest rates in Canada. Our cost of new injuries is around \$1.31 or \$1.32, something like that, and is one of the lowest in the country.

Looking in front of us, if we put this unfunded liability behind us, this legacy of debt—and let's stop trying to point fingers and argue what the causes were. We know generally what has contributed to the unfunded. Let's move forward in a disciplined way. There's a plan to—the government has already committed to eliminating it in 15 years so we don't transfer this debt to a future generation of employers. Then we can be really competitive in Ontario, at least with respect to WSIB premiums. I think it's critical that we get at least to 100% funding.

Arthurs provided kind of what he called a corridor to get there. He strongly recommended that we get to the tipping point of 60% in five years, and the government committed to doing better than Arthurs had recommended, to a 15-year window to get there.

**Miss Monique Taylor:** I believe that when he was here speaking yesterday that he did mention that he was concerned that the government had locked themselves into providing a mandate for themselves of getting to that point, and if they didn't reach that target, what would be the consequences at that point. So, yes—

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Miss Taylor. To the Liberal caucus: to Ms. Albanese or Ms. Cansfield.

**Mrs. Laura Albanese:** Thank you for your presentation. I wanted to ask you if you could describe your overall relationship between the WSIB and your association and its members, and any recommendation on improving that.

**Mr. Ian Cunningham:** I would say the relationship is very strong at the most senior levels. Mrs. Witmer called me when she was appointed, and I've met with her in her office. Mr. Marshall—our organization is represented on two of the chair's advisory committees, which were established by former chair Mahoney. In my view, those are the primary conduits used by the WSIB to seek early-stage feedback of new ideas and exchange in a confidential way some ideas and best practices and so forth.

I would describe our relationship as professional and respectful. We don't always agree, but I have a great amount of admiration for the senior management team there.

**Mrs. Laura Albanese:** What is your opinion of Bill 119? In your opinion, will it help to combat the underground economy?

**Mr. Ian Cunningham:** COCA supported Bill 119. There was considerable debate within our organization. Of course, construction is largely comprised of small businesses and lots of independent contractors.

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I think the argument that won the day was the situation that the previous speaker spoke of: Many good-sized contractors turned their workers or their employees into independent contractors simply to avoid the payment of WSIB premiums and giving them an unfair advantage in the marketplace over those contractors who were operating more legitimately. A level-playing-field argument was the argument that won the day within our organization. So we supported Bill 119 and mandatory coverage for independent operators.

**Mrs. Laura Albanese:** In the list of your final recommendations—I don't remember exactly what number it was—I want to just make sure that I understood correctly: Did you say that increased benefits must be stopped?

**Mr. Ian Cunningham:** No.

**Mrs. Laura Albanese:** No. If you could clarify, because you were going very quickly—

**Mr. Ian Cunningham:** I said the government—not any government in particular, because I think this has been problematic over the years—would jump in without giving any consideration to premiums and retroactively introduce new levels of benefits. That cost burdened the system with significant unanticipated costs and simply added to the unfunded liability. I think this is consistent with Professor Arthurs's thinking in his report.

**Mrs. Laura Albanese:** So you were talking about government interference in the WSIB.

**Mr. Ian Cunningham:** I suppose the government could say it's not interference. They're given, through the legislation, the responsibility of setting the benefits, but to set benefits retroactively without consideration for their impact on the system is not a tenable situation. When the funding level is around 50%, 51% or 52%, whatever it is, it threatens the viability of the WSIB.

**Mrs. Laura Albanese:** Okay. The other questions that I had have been answered. I understand you're very supportive of balancing the unfunded liability, and you spoke a lot about that.

I don't know if my colleagues have any questions.

*Interjection.*

**Mrs. Laura Albanese:** We don't. Thank you for your presentation.

**The Acting Chair (Mr. Shafiq Qaadri):** All right. I thank the Liberal caucus and now move to the PC side. Mr. McDonell.

**Mr. Jim McDonell:** You talked about the increase in benefits. The Auditor General talked about the unfunded liability increasing by almost a third in 2008 just because of very much the same thing, where benefits were increased without any regard for inputs or costs to the sys-



tem. Do you have any ideas on how we might stop that in the future?

**Mr. Ian Cunningham:** I think the current government listened to Professor Arthurs's advice. You will know that, concurrent with the release of the Arthurs report, the government signalled that for 2013, benefits for partially disabled workers will be increased by 0.5%, so that provides the WSIB with the opportunity to incorporate that into their rate-setting process. I would say the government should give those signals in advance of the rate-setting process. Also, the rate-setting should be done well in advance so that contractors who are bidding work can build that bidding work today into contracts that they may win six months down the road.

**Mr. Jim McDonell:** Also, in your report you mentioned some of the diseases and the various causes. Sometimes they are being contributed to from the workplace, but of course, those things are always unknown. People can be somewhat prone to get certain diseases, and it's hard to put a finger on what caused what, especially with some of our technologies. I mean, coal has been used since the mid-1400s, 1500s. With technology, as we move ahead, we learn a lot more, and that continually happens as our knowledge increases. Any comment on that? Or should we just cover those things basically under the health system itself, not knowing where the issues come from?

**Mr. Ian Cunningham:** Well, where there are multi-factor diseases, the cost should be apportioned to the workplace and to the public health system based on the extent to which those causes can legitimately be assigned. As you say, there is an increasing amount of science developing every day that helps us make those assignments.

**Mr. Jim McDonell:** So it's basically, on a percentage-type basis, dependent on what the issue is?

**Mr. Ian Cunningham:** Yes.

**Mrs. Jane McKenna:** Thank you so much for coming today. It was a pleasure to listen to you. You're very articulate.

My question is, what will the economic impact be of higher rates on the construction industry?

**Mr. Ian Cunningham:** Anybody who represents employers is not paid to promote higher rates, but this conversation has been going on long enough. Everybody knows that rates are going up. Professor Arthurs, I think, gave a couple of different scenarios where rates could go to about \$2.50 or to \$2.70, the average rate, from the current rate of about \$2.40, I think. It's not a good thing for anybody. It doesn't do anything to improve the province's competitiveness, but a dose of strong medicine has to be swallowed and we've got to move forward in a disciplined way to put this unfunded liability behind us.

**Mrs. Jane McKenna:** Yes, because it's strictly like a math question when you look at it, because you're saying \$2.40, and when you look at it over 15 years, that's a billion dollars a year. If, right now, the operation is \$3 billion, you need \$4 billion, which is an increase of 25%, so you've got to come up with monies. You just can't

look at saving \$50 million, because then you've got to find another \$950 million somewhere else. To me, the logical question would be, "What is that rate going to be?" and have that answer, because that's doing your job to move forward. It's just strictly a math question to me, when I look at it, the bare essentials of what that is. Do you see that the same?

**Mr. Ian Cunningham:** Yes, and you should make your inquiries to the representatives of the Workplace Safety and Insurance Board who are up next as to when the rates will be published—I think they're going to be published in the late summer or early fall—and exactly what the cost of new injuries is, what the administrative costs are, what the unfunded contribution is, and all those various components that go into the rates.

**Mrs. Jane McKenna:** Yes, because, just sitting here, it does impact the small businesses and the medium businesses, more so than the larger businesses. Just going through this process and having this privilege of sitting and subbing in for somebody for the last day and a half, it's not rocket science, some of the things that have come in here that you look at that we could do to fix, but you need to make sure that we do do something, because we need to keep businesses here. I've said it many times today: Capital is mobile and Bay Street knows it, and they're not going to stay where there's high debt and high taxes and high hydro. And then you've got a percentage, regardless of what that is, that's going to impact businesses as well.

**Mr. Ian Cunningham:** To me, the plan going forward does have an element—and I hope you've gathered that in my remarks—about restoring our economic competitiveness. We've been off the track for a long number of years. We're stuck with some legacy debt that we have to deal with. Let's deal with it in a disciplined way and put it behind us so that we can restore our competitiveness. That's part of the argument. In a way, we have to also—I don't want this to be totally economic and financial. Employers understand that there's kind of a social bargain, that we have to provide fair and good levels of benefits to injured workers.

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**Mrs. Jane McKenna:** And it has been great listening to you today, because you were very articulate, listening to the information that you brought forward, so I thank you myself from everybody else for coming.

**The Acting Chair (Mr. Shafiq Qaadri):** You still have about three minutes. Mr. McDonell.

**Mr. Jim McDonell:** You mentioned the 72-month lock-in period. Have you seen any instances, or many instances, I should say, or a percentage of them, where they should be reviewed again?

**Mr. Ian Cunningham:** I think the 72 lock-in creates a milestone in the life of an injured worker, in the life of a claim, where you just kind of give up. The system gives up on the employee. It says, "We can't help you anymore." I don't think that's in the best interests of the injured worker, who should continue to be mobilized to get back to work. This isn't available in every case and in



every claim, but he shouldn't be in a position where he's forced to give up on himself and simply spends the rest of his life collecting benefits in a way that's got to be unfulfilling and puts you in kind of a downward spiral.

I think it's unfair to the worker to give up on him. I think these lock-ins should be made on a medical, scientific basis and not simply on a 72-month time period. It seemed to be efficient at the time the system was made, but I think it's wrong in a way that's unsympathetic to injured workers.

**Mr. Jim McDonell:** And one last one: When you look at our benefits and how they've increased, how do we stand against the other provinces in the country? Are our benefits similar or ahead or behind?

**Mr. Ian Cunningham:** I think that if you looked at a listing of the menu of benefits that we offer, it would be considerably more fulsome than any other compensation scheme in Canada. I don't know this, but I suspect there is the opportunity for benefits to cascade over benefits over benefits in a way that's not intended. That's why we recommended one of our strongest recommendations, which was an Arthurs-style review of system costs. We complained vigorously to the WSIB that the scope of the Arthurs review was far too narrow. It only examined one side of the ledger in a way that made employers suspicious that it was all about getting more money from employers. We also think there should be a similarly-styled review looking at the cost side of the ledger as well.

**The Chair (Mr. Shafiq Qaadri):** Thanks to you, Mr. Cunningham, for your deputation on behalf of the Council of Ontario Construction Associations.

#### WORKPLACE SAFETY AND INSURANCE BOARD

**The Chair (Mr. Shafiq Qaadri):** I would now invite our final presenters of the day: Elizabeth Witmer, chair of the board, and Mr. Marshall, president and chief executive officer of the WSIB.

I'd also just like to take direction from the committee. As you know, Ms. Witmer and her colleague have 30 minutes in which to make their presentation, after which each caucus has 30 minutes to question. Either you can have 30 minutes as a block or ask the Chair to work extra hard with nine transitions in 10-minute rotations; so, 30-minute blocks or nine transitions of 10 minutes?

#### *Interjections.*

**The Chair (Mr. Shafiq Qaadri):** I'll be seeking some kind of compensation, though, in any case. Fair enough.

Ms. Witmer, welcome to you and your colleagues. I invite you to officially begin now.

**Mrs. Elizabeth Witmer:** Thank you very much, Mr. Qaadri. It's always a pleasure to have you in the chair. You're very decisive and fair.

Good afternoon. It's great to be back here after two days of hearings. I hope that you now have a better appreciation of the magnitude and the scope of work that's carried on by the very dedicated and committed staff at

the WSIB on a daily basis, and also the many challenges and issues that face us all.

I think as well you can see that we are trying to do all we can to transform the WSIB into a strong and sustainable workplace safety and insurance system that is going to be there for employers and workers today and well into the future.

We have very carefully read the submissions. I can tell you that staff were up till midnight last night as we took a look at what had been said. We do appreciate those submissions. We've listened to the concerns. We've listened to the issues that have been raised. We will not only be, of course, preparing some responses for you today, but, moving forward into the future, we will continue to review those submissions that have been presented to us.

We thank all those who took the time to come forward: not only the people who presented to you in this room, but also some of the folks who have given us written submissions. They're extremely important. I would say to you, personally, since I'm just into the first few months of my mandate, I do welcome very much the opportunity to hear from stakeholders—the worker community, the employers and anybody else who has an interest in this particular system—to have the chance to see what they perceive to be the problems and the priorities for change, and I look forward to the recommendations.

I can certainly tell you that one of the biggest changes that I have seen and that I have heard about is that there is an increased focus at the WSIB on working in collaboration with the stakeholders, having consultations with the stakeholders. When we talk about consultations, it's not just listening to them; it is about actively considering them. As you make your decisions and you change your policies, you take that into consideration, because everybody has a valid point of view that should be considered. I can assure you that that is going on, and I see that as a priority, and I believe it's very important if we are to meet the needs of the workers and the employers in the system.

Also, I've heard concerns expressed about the whole issue of prevention. Since my time as Minister of Labour, this has been a huge priority for me personally. Although we've lost the prevention function, we continue to have a huge responsibility to ensure that our workplaces are safe and healthy. I can also assure you that since my arrival, we have talked about the fact that we need to make sure that we focus on that part of our mandate to keep our workplaces healthy and safe. So we are continuing with the work of our health and safety committee. Also, we did make a commitment to continue with the Workwell program and also with safety groups, and that has happened in the last month as we have met with stakeholder groups.

So I want to tell you that the WSIB management team and board are not only listening to the concerns that are being expressed to us, but we are making changes that we feel are in the best interests of keeping our workplaces safe and healthy for all those who work there.



The other priority that I see and I've heard about is that in everything that the board is doing now, they want to ensure that there is transparency, that people can see what is happening but also understand why decisions are being made. As we move forward with the setting of the premium rates, I can assure you that that information will be presented to—obviously, in this case, it would be the employers who would have a greater interest.

We also want to make sure that in all of the decision-making that takes place, there's fairness to both the work and to the employer. We want to make sure there is integrity in everything that we do. I just go back to the fact that since Mr. Marshall has assumed the presidency of this organization some two years ago, and with the support not only of the senior management team but staff throughout the province of Ontario, there is a noticeable change in the way that the board conducts its business, based on some of the factors that I've just presented to you.

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We continue to recognize that our main mission continues to be to help workers who are injured return to work. I heard somebody say that that work needs to be productive. We agree. We need to return those people not only to productive work but to productive lives. At the same time, we need to protect employers from financial loss through a collective insurance plan.

Our goal—and I expressed it yesterday—is to be the leading workplace compensation board in Canada and North America. So we will do everything we possibly can by working together with the stakeholders to ensure that we deliver better services but do so in a financially responsible and accountable way. We are committed to change, and that change is taking place now, and has been, under the leadership of Mr. Marshall.

You probably heard, as we did, that there are many divergent and sometimes polarizing views on how the WSIB should conduct its business. That's okay. We need to take those all—and I stress “all”—into consideration. They're all important. As I read the presentations and as I listened, you think about, “Okay, this is what they perceive; this is what they believe.” We have to make sure that that is correct, that it's accurate, and if that exists, we need to make sure that we address it.

I think you've also heard that when some of the recommendations are made, they're actually not changes that the board can make; they're changes that the government can make. I think sometimes there is a little bit of confusion as to the role of the board and the role of the elected MPPs. But we have listened carefully to the views and, as I say, we're going to move forward and take them into consideration as we work to do all we can to improve services and access to those services.

Since I'm not sticking to my notes, I just want to move into policy governance and stakeholder consultation. Yesterday, in my opening remarks, I referred to the fact that we want to make sure that we do have a strong board, strong governance; that we do have the competencies on the board to take into consideration all of the

issues that need to be considered and decisions made on behalf of all those we serve. If you take a look at the policy agenda—and I referred to it yesterday. In 2012, this year, the WSIB did publish and distribute a formal policy agenda. It is now giving an open and transparent view to stakeholders of our annual policy review and consultation process. This is so important, because that has never before been done. Again, I believe that speaks to the transparency of the organization and also to the desire to get input from all of the stakeholders.

The 2012-13 policy agenda, as you know, has a significant benefits policy component and does include extensive consultation on elements of the Arthurs report. A consultation secretariat has been formed to coordinate and oversee the consultation as well as to make sure the stakeholder views are not only heard but taken into careful consideration. In doing this, we listened to the stakeholders who wanted a process that was similar to Professor Arthurs's when he looked at the benefit policies. We hired respected expert Jim Thomas to lead the benefit policy review. As I say, we welcome the input from our stakeholders.

In fact, it was interesting to hear the Canadian Manufacturers and Exporters, who in their submission noted, “There has been progress with respect to both the financial crisis at the board and stakeholder engagement. The WSIB has developed a very comprehensive policy framework model for policy” revision “and development which we believe will significantly improve the quality of policy development at the” board. “Consultation is not a one-way communication of information, but rather a meaningful exchange and debate on issues or policies which the new consultation model provides the framework for.”

That's what we're endeavouring to do, and that's what the team have been doing for the last couple of years: to really become involved in more meaningful exchange and debate on the issues or the policies.

We're also making sure that the stakeholders can participate in the process and that they have an opportunity to provide us with input. Yesterday, you heard from ONIWG and the Ontario legal clinics that were here. In looking at their presentation and reviewing it, I didn't see them mention the fact that they did ask us for some financial support in order to assist them. I'm going to say to you that we did listen to them, and it actually has been provided. I think that's important, that that funding is there and that we are listening to the injured worker group.

We are consulting extensively on funding issues in the fall, beginning with the premium rate-setting, rate groups and incentive programs, such as the experience rating program, and you've heard about some of the concerns, particularly with experience rating. We are very concerned about claim suppression and the underreporting of injuries. You know what? It hurts everybody. We have commissioned a study to explore this issue, and that study will be conducted, and it will have an independent



chair review that particular issue. There are other consultations ongoing as well, and there will be into the future.

I want to get back to what I mentioned yesterday, and some reference has been made. I will tell you that the new—they're not so new now, but they're the chair's advisory committees that were established by my predecessor, Steve Mahoney. I do believe they're playing a very important role in that we meet with the organizations quarterly. These are consultations that didn't take place before.

For example, one of the changes that was made, based on the meeting that we had with the labour/injured worker advisory committee, was—they were looking for more time to do the consultation on the appeals process. It was supposed to end in July. As a result of their feedback as to why the time wasn't long enough, we have set the new timeline as September 30. As I say, we want to make sure that people have ample opportunity to provide us with good evidence and information and allow them to do the job that is necessary.

We have four chair's advisory committees, involving more than 40 organizations, and I just want to list them for you: (1) the labour/injured worker advisory committee, (2) the industrial/manufacturing advisory committee, (3) the general business advisory committee and (4) the construction employers' advisory committee.

These groups meet with me and the president and senior management quarterly. We discuss policy. We take a look at their concerns, their positions on issues, and hopefully, at the end of the day, we are able to find solutions and have done so in a very constructive dialogue. I do believe they will continue to work well.

Many of the 40 organizations who are members of these four committees actually were here over the course of the last two days, and I'll just mention ONIWG, the Ontario Network of Injured Workers Groups; Canadian Manufacturers and Exporters; the Ontario Federation of Labour; OPSEU; the Ontario Home Builders' Association; and the Council of Ontario Construction Associations. They're all members who sit on those committees.

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There was certainly a lot of discussion about benefits, and there always will be. Certainly the goal of the WSIB, and what I have come to understand very well, is that the entire team is very committed to ensuring that workers who are injured on the job receive fair benefits and do so in a very timely fashion. A lot of work that has been undertaken in the past two years to make sure that we can improve the system and that we can focus on improving access to services for our customers, improving the quality of the service and also the fairness.

We're also making sure that we're raising the awareness of the services that are available. I made reference yesterday to the fact that with so many new immigrants who don't speak English as their first language, we're trying to make sure that they can access the system and learn about the system and the board even before they get a job. We also want to make sure that young workers are aware of their rights and their responsibilities.

We've heard some mention about the fact that benefits to injured workers are being cut, but when we take a look at the data, there's an indication that that's not the case; in fact, the opposite is true. The number of claims has dropped significantly—and I know this has been an issue just this afternoon—and the rate of injury has also gone down. The statistics tell us that 2.37 per 100 people employed was the rate of injury 10 years ago. That's now down to 1.15 per 100. We're near the lowest rate of injury in Canada, if not the lowest. I think that's important information. So not only have the number of claims dropped, but the rate of injury has as well.

We're getting workers back to work more quickly and more safely than ever before. Some 91% of injured workers are returning to productive work within one year of their injury with no wage loss, through our new service delivery model, and 74% of injured workers with permanent impairments are returning to work.

Our medical strategy is increasing access to health care for the injured workers, and it's providing more timely care for those individuals. One of the initiatives has been to double the number of specialty clinics to 35 offices—and yes, the province does not start and finish in Toronto. We have expanded those clinics in order that people can access them more closely to their home, so they're throughout the province of Ontario. These specialty clinics are treating specific injuries such as: lower back pain, which is very common, those types of injuries; shoulder and knees, and I think there are about 11 other specialty clinics as well.

So there's better access to care throughout the province, and as a result of that, we're seeing that recovery times have been reduced when people don't have to travel into Toronto and more people are able to return to work more quickly. We've also, as a result, seen fewer workers suffering permanent impairments as a result of their injuries. This is all very, very good news for those people.

To better serve injured workers, we've really changed the focus to active treatment. Rather than being a passive player and having our staff sit in an office, they're now out on the front lines: They're meeting with the injured worker; they're meeting with the employer. And we're not paying now for potentially addictive narcotic prescriptions to keep the pain from becoming, obviously, overwhelming. This is all paying very huge dividends for the injured workers.

Some 87% of injured workers now are getting a decision in two weeks, compared to 65% three years ago, so that's better. In fact, you might not know this: 50% of workers are receiving a decision within 24 hours. So half of the people injured are getting a decision within two days. Decisions are quicker and injured workers are also—and this is always good news—getting their paycheques, the money owed to them, more quickly than ever before, so there's obviously less stress on the family. As a result, the WSIB now has among the lowest administrative costs in the country and one of the lowest new-claims costs in the country.



I know it has been asked, “What about the benefit package?” Recently, Mr. Marshall and I were at a conference with our colleagues. Our benefit package is very comparable to what’s happening throughout Canada.

**Improved front-line service:** I think you can see we’re doing everything we can to modernize and provide the best service possible. We recognize that all people, all stakeholders, workers and employers, deserve a responsive, effective and efficient response, and we’re doing a better job of getting the people back to work.

The other note I just want to make here, and it goes back to the medical, in some respects, and services: We have expanded the role of the ergonomist so that they have an even greater impact. We’ve improved the medical specialist model in such a way that they are out there on the front lines providing services rather than, again, in our offices here.

I also would say to you, based on the fact that we recognize we have more immigrants than ever before, the approach to multilingual services has been expanded. There is greater access than ever before to those individuals who do not speak English or French. I’ve been quite impressed personally, when I had an opportunity to meet with some of those people, to see how much access there is for those who don’t speak English or French.

Moving into the future, the goal is to continue improving the services we provide and to ensure we can meet the changing needs of the system. Again, that’s why the input today and yesterday was very important, and moving into the future.

I think we’ve talked a little bit about prevention. As I say, it continues to be an imperative and a priority for us. What we’re doing now is we’re working with the Chief Prevention Officer and the Ministry of Labour, who have the responsibility on the transition, and helping to facilitate that transition. As I say, I always believe that has to be the first priority. You don’t want fatalities; you don’t want injuries on the job. The health and safety associations continue to be up and operating, the safety groups, and the Workwell program.

I’ll just go to premium rates. Premium rates are always going to be a difficult issue, but the reality is, they have not been covering expenses for quite some time. Between 1996 and 2009, the premium rate decreased by 25% at the same time as benefit payments were increasing quite significantly. Obviously, that’s just not a sustainable model and you can’t operate that way. So we have recognized—and the government has recognized, and Harry Arthurs has recognized, and the Auditor General—that decisive action needs to be taken. We now have a mandate from the government to address that unfunded liability. I do know that under the leadership of Mr. Marshall, a very comprehensive and prudent plan has been developed that I do believe and my board does believe will achieve that objective. Any rate increases that come forward, I can tell you, based on the work that the management team has done, will be consistent with actuarial science and will be transparent and also predictable. In fact, if we didn’t have this UFL, Ontario would

have one of the most competitive premium rates in Canada, and as you can well see, if we take a look at that—and recognize we also have the lowest administrative costs in the country. So we are on the right track.

**1520**

I would just close by saying that we’ve appreciated—everyone has appreciated. I can assure you that the senior management team and staff throughout our province are taking the concerns and the questions that have been raised into serious consideration. We welcome the opportunity to continue to transform the board into a modern, sustainable and accountable workplace insurance system for our workers and our employers.

We certainly look forward now to your questions.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Ms. Witmer, for your precision-timed remarks.

We’ll begin with the NDP: Mr. Natyshak. Just a reminder, there will be 10-minute cycles, also vigorously enforced. Please begin.

**Mr. Taras Natyshak:** Ms. Witmer, thank you very much for your presentation once again today and appearing before the board for an extended period of time. I certainly appreciate the information that you gave us yesterday, and I know you’ll present clear, concise information for us today.

Yesterday we also had the opportunity to hear many deputations, one of which was from Professor Arthurs. In the context of his report, he clearly stated that “the WSIB cannot and should not make premium rates affordable by subverting the intention of the Legislature or denying injured workers their legal rights.” Given the deputations that we heard yesterday and the information that we see each and every day in our offices, I’m concerned that that is effectively exactly what is happening at the WSIB. Members can very well acknowledge that we have many injured workers coming in with significant problems accessing their benefits through the program.

Let me be very clear that there is mounting evidence that over the past two years the WSIB has attempted to deal with the very real unfunded liability by putting in place a set of informal and semi-formal practices and procedures that have ultimately led to the effective reduction of worker benefits, in a way that amounts to denying injured workers their legal entitlements. Many of these informal guidelines and procedures have their origins in the KPMG value-for-money audit and were implemented at precisely the same time that Professor Arthurs was writing his report, which also intended to deal with the unfunded liability.

Our questions today are not intended to blame a singular person; they’re intended to get to the bottom of what the implications are of these informal procedural issues and to ensure that injured workers are not denied, obviously, their legal entitlements.

I’m also concerned about what I read in CUPE’s deputation. They mention an \$825,000 consulting contract with Deloitte to look at reducing claims costs. CUPE says that the statement of work for this report states that “the cost of new claims coming into the sys-



tem and those reaching the legislated lock-in duration must be mitigated.” It’s what the intent and mandate of that report is.

Do you agree that that was the mandate of the report by Deloitte? Also, was it the board’s intention to make the Deloitte report public and, if it was planning on doing so, when can we expect that? Aside from CUPE identifying it, it’s the first time that some of our stakeholders have had any awareness of that type of a report being issued.

**Mrs. Elizabeth Witmer:** Mr. Natyshak, I really do appreciate your in-depth knowledge of the board and the very legitimate concerns that you’re raising regarding those two reports of KPMG and Deloitte. I’m going to ask Mr. Marshall to respond to that.

**Mr. I. David Marshall:** I could address the central issue that you’ve raised, which is denying claims. I think that’s probably the key thing that you’ve asked us to comment on. What I’d like to let you know about is that the percentage of claims that we allow has not changed very much at all for about a decade. We allow about 75% of the claims that come in.

What has changed is, claims that previously used to be abandoned: Now that we are looking at them quicker, more of those are being denied. Between the abandoned and denied, there’s very little change, and there’s very little change in the total claims that we accept as a percentage of those coming in.

In terms of the actual awards that are given on these claims, we did a very careful study to ensure what was happening there. We compared the amounts paid to workers in 2009 compared to 2011, so that’s before the changes that we put in and after. What our chief statistician found was that there was a drop in total benefits paid, but that the amount paid for a single day off work that a worker would require help had not changed very much. It had gone up, but that was because of wage inflation. When you adjusted for that, if a worker needed help for 10 days off work, in 2009 they got paid exactly the same as they did in 2011—

**Mr. Taras Natyshak:** Forgive me, Mr. Marshall; I’m going to cut you off there because I have a couple more that I need to get to. We’re concerned about the process, not necessarily the different types of denials or approvals. We’re concerned about the process that leads to an individual’s denial. What was stated prior was that claims were denied more in the fourth quarter of 2010 because of the more stringent application of eligibility criteria. We’d like to know what that more stringent eligibility criteria is and the application of it, as well.

Yesterday we had some questions surrounding some of those processes. You had mentioned that all we needed to do is table, or request via a letter, some of the documents that we would like to see. I’d just like to let you know that I’m going to be giving you quite a voluminous list of documents that we’d like to see that would certainly address some of the issues that we heard from deputations earlier yesterday and throughout today. One of them is, of course, the Deloitte consultation that was

initiated. I’m wondering if you are at liberty to table that to the committee.

**Mr. I. David Marshall:** Certainly.

**Mr. Taras Natyshak:** Okay, so we would like that.

**Mr. I. David Marshall:** As long as we get a list of what you want.

**Mr. Taras Natyshak:** Yes, I can certainly do that. There are a couple of others.

I’ll get to my second question. We’ve heard that the average length of labour market re-entry programs for injured workers was getting cut off from almost 19 months to five months. How does cutting off the amount of retraining for unemployed and injured workers help them to find new work?

**Mr. I. David Marshall:** I think the issue here is, you can’t tell the amount or value by just looking at how much was spent. What happened when we had outsourced labour market retraining is that workers complained bitterly for many years that they had no choice in what that training was, that it was not very good training and that they were being trained for very low, entry-level type jobs. When a worker couldn’t get back to their original employer and had to be trained for some other kind of work, the clock started there and we handed the worker off to an outsourced supplier. That typically took about 19 months, cost quite a lot of money—about \$165 million a year—and the resulting success rate of workers finding work after that period of 19 months or so was just 36%.

We’ve changed all that. We brought that back in-house. Before we hand a worker over into training, we spend a lot of time working with the employer to see if we can retrain the worker on the employer’s own premises for different kinds of work, and pay for that. We never used to do that. We give the worker a chance to decide what kind of retraining they think they would benefit from. The result is that the time that it takes for a worker to get back after not being successful with the employer is now down to about five months and the costs are down to about \$110 million a year, and the success rate is up to 74%. So this is much, much better for workers than before.

**Mr. Taras Natyshak:** There’s a difference between re-entry with the original employer and re-entry into a different labour market. So the numbers may come down, but to place a worker into their original placement has certainly not been effective through the programming.

**Mr. I. David Marshall:** Well, it has. We’re getting 91% of workers back within a year—

**Mr. Taras Natyshak:** Within their own original—

**Mr. I. David Marshall:** —and there are fewer of them coming back. Yes, 91% of workers who suffered a single day off work or more are back to their original employer, with no loss of pay, within a year or less of being injured.

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**Mr. Taras Natyshak:** I have more questions around labour market re-entry afterwards. I’d like to simply state for the record some of the documents that I will be re-



questing—I've got 30 seconds—regarding: loss of earnings; pre-existing conditions; aggravations; recurrences; benefits following work disruptions; permanent impairments; workers' approaches to the six-year lock-in; and lower back injuries. Those are all pretty forthcoming documents that I would hope the committee could be privy to. I'll stop there, Chair.

**Mr. I. David Marshall:** Certainly. I'd be happy to do that.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Natyshak. To the Liberal caucus: Ms. Albanese.

**Mrs. Laura Albanese:** I want to thank you for yesterday's presentation and today's presentation. We've obviously listened to many presenters between yesterday and today, as you have. One of the concerns that you have pointed out has been this reference to cuts in benefits that are being paid out to injured workers. I would like to know if you could confirm whether the amount of benefits and health costs covered per injured worker has changed or not changed in the last few years. I know that the number has gone down, but really, the cost of those benefits per injured worker.

**Mr. I. David Marshall:** Yes, I'll be glad to talk about that. There has been a drop in the total amount of benefit costs over the last two years, and that is tracking the drop in the number of claims that have come in. Over the last dozen years or so, that didn't happen. Costs kept going up even though the claims were coming down, which is not what you should really have happen in the system. What was happening before is that we weren't being successful in getting workers back—the medical care was not appropriate; the interventions were not appropriate. While the number of claims was coming down, the costs were ballooning up exponentially. They went up \$1 billion a year or more over the period of 1999 to about 2009. Starting in 2010-11, we started to turn that around. That's really what has been happening. We've been much more active getting workers back, much better medical care, so you're finding the cost coming down.

That's what I was referring to a little earlier. We did a comparison of how much workers were paid per day off to make it comparable, because they were staying off more days before than now. Over the three-year period of 2009 to 2011, our chief statistician found and proved that a worker needing a certain amount of time off work was getting paid a little more in 2011, but that was because of wage inflation. When you adjusted for that, he was getting paid exactly the same.

The drop in cost was not a cut to any kind of benefit; it was simply fewer workers needing a claim, needing benefits, and more of them getting back earlier.

**Mrs. Laura Albanese:** I just would like you to confirm: We have also heard concerns about workers not finding suitable work, or returning to a type of job that was not suitable to them. Did I hear correctly that you're saying that they're now returning to the same employer?

**Mr. I. David Marshall:** Yes.

**Mrs. Laura Albanese:** I guess my question is: Do you have a way to measure satisfaction within the injured workers returning to work?

**Mr. I. David Marshall:** Yes, we do. Obviously, it's a fairly new system, the change, but what we can tell you is that we measure what we call the recurrence rate. If a worker went to work and then that job was not suitable, and for some reason they came back to us for benefits, we measure that rate. The rate has dropped by about 20%—workers coming back.

Again, it's early in the system, so we are going to keep measuring it, but there's a very noticeable improvement in the ability of the worker to continue in the work where they went back. We've also found quite a big improvement in the satisfaction surveys that we've done of workers and employers in this whole area of return-to-work.

**Mrs. Laura Albanese:** Thank you for that.

Another issue that was raised was this void in prevention between what's happening at the WSIB and what's happening at the Ministry of Labour. Would you be able to table for the committee a list of all the prevention activities that are still being done at the WSIB and what has been transitioned to the Ministry of Labour?

**Mr. I. David Marshall:** Certainly. We would be more than happy to do that.

**Mrs. Laura Albanese:** And could you, in the meantime, just tell us what—I know that Mrs. Witmer had mentioned that the Workwell audits are still going on. Could you give us a bit of an overview of that?

**Mr. I. David Marshall:** Sure. What's happened is that we work very, very closely with the new Chief Prevention Officer, Mr. Gritziotis. He's a very, very competent individual. Obviously, he has to build up his office to be able to execute all of his mandate. In the meantime, we're working very closely with him in certain cases where he's not ready to take over functions, like the Workwell audit of premises. We are continuing to do that on his behalf and letting him know how the results are coming out.

The health and safety committee of the board is still meeting.

I think something that's quite important for everyone to understand is that the major part of work that's happening out in the communities to help businesses with prevention and educate them and provide expert advice is coming through the health and safety associations in the various communities. Those are fully functional; there's nothing that's happened in their case. We've transferred the funding for them to the Ministry of Labour, but they continue to be funded and fully staffed and working in their communities.

**Mrs. Laura Albanese:** So there is sufficient staff to do the work?

**Mr. I. David Marshall:** There's plenty of work going on. I think you would probably want to ask the Chief Prevention Officer how he feels about that, but certainly there's a lot of attention being paid to prevention.



**Mrs. Laura Albanese:** Another concern that has been expressed by many of the presenters is in regard to the appeals process and the changes that are coming forward. I'm sure you've taken note of those.

One of the concerns that I've heard that has really interested me is the fact that perhaps the adjudicators or the training of the front-line staff—that many of the decisions taken by the front-line staff end up being then overturned at the tribunal level.

**Mrs. Elizabeth Witmer:** Yes, and I think I made reference to the fact that the consultation time has been increased in order that the stakeholder groups can prepare presentations that would reflect all of their concerns. The timeline was the middle of July; it's now the end of September. So, again, we heard them. We want to make sure that all of their concerns can be properly considered and that whatever final decision is going to be made would reflect that.

I'm going to let Mr. Slinger respond because he deals with the appeals.

**Mr. John Slinger:** I think it's a very fair question. In fact, it ties into a number of the things we've been talking about.

From my perspective, we are in the best position we've ever been in operationally. What we have done when we went to the new service delivery model, which really developed late 2008 into 2009, was, of course, we put people into more specialized roles, and we added 300 return-to-work folks. So our capacity grew significantly, and we haven't reduced any of our case managers.

We're in a situation where, as claims have gone down by 32% over the last three years and our operating staff has gone up, we've been in a better position to scrutinize cases, understand them better, have more conversations and get better results. From our perspective, that has been a key part of this whole thing.

I know you've certainly heard from people saying, "There have been cuts. There have been cuts." Well, as the individual responsible for service delivery, we haven't had cuts, and in fact we have reinvestments specifically in return-to-work. That has been huge.

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The other thing it has allowed us to do, of course, as we've developed these specialties, is that people's skill levels have grown. In fact, last year—2011—we actually provided two times the amount of front-line training that we did in 2010. In fact, we committed 30 trainers specifically to providing training to those front-line staff.

From our perspective, we're now in a position where we're meeting the legislated requirements, in our view, better than we ever have before. We have smaller case-loads than we've ever had before; we've had more training and greater specialization. From my perspective, all of this speaks to improved quality. Of course, the question is, "Are there more appeals?" The appeal reversal rate is the lowest it has ever been since 1995. I use 1995 because I became the director of appeals in 1995 and we had a backlog of 18,000 cases.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Ms. Albanese. To the PC caucus: Mr. McDonnell.

**Mr. Jim McDonnell:** Yesterday, we heard from one group that was suggesting that after almost 100 years, it's time for a royal commission to look at: Really, is the commission doing what it should be doing? In today's world, maybe it needs to look at what it's paying for, how it collects and who's paying. Any comment on that?

**Mrs. Elizabeth Witmer:** If there were to be a royal commission, obviously that would be up to the government to make that decision.

There have been a lot of studies taking place recently. We had the Tony Dean report, we had the Arthurs report, and now Jim Thomas is going to be doing some work.

If that was what was deemed to be necessary, certainly it's something that the government could decide should happen.

**Mr. Jim McDonnell:** But from the inside, do you see the way it works, comparing to not only other provinces, but other jurisdictions across the continent?

**Mrs. Elizabeth Witmer:** Perhaps Mr. Marshall might want to respond, since he's certainly well aware of what's going on across Canada with the other provinces when it comes to the WSIB. I can tell you that at the one meeting that I did attend, they really were looking, in many ways, to leadership from Ontario. Mr. Marshall?

**Mr. I. David Marshall:** I think the questions you ask us and we ask ourselves are all very, very important because we're trying to resolve a pretty serious situation. It's not easy to try to recover from a huge financial challenge, be fair to workers and get the job done right. It's a long horizon. You're talking about 15 years, 20 years. It is very important to ask these kinds of questions.

What I can tell you, as we see it internally as one input, is that when you look at the benefits side of the equation, it comes into two parts: the actual benefit required and then how it's administered. What we found is that the benefits in Ontario are very comparable to what is being offered in all the other provinces, with the exception of this provision for the lock-in of benefits at six years, which was referred to, I think, by Mr. Cunningham earlier. That is a feature that's unique in Ontario, and it's something that you could look at or think about. But in terms of the general benefits, they're very comparable.

Having a big inquiry to see whether or not you could cut the percentage of wages that you replace or cut something else and so on I don't think is going to be really that productive. I think the issue is: We've had the same legislation for benefits for a long time and we've seen costs spiralling over a 12-year period. Now we're seeing them come down.

It's a question of doing the job efficiently, and in that regard, Ontario now has one of the lowest costs to support new claims of any of the other provinces, and one of the lowest administration costs. So we're really down to getting rid of that overhang of loan that we have to pay off, and then we can get very, very competitive rates. That's really the strategy that we're on.



**Mr. Jim McDonell:** I wasn't so much thinking of doing the current job better, but I was looking at—and tying this back to the health system: Is it the right way of doing things? Should you set up your own clinics to look after issues more quickly, or is it better to bring it back to the overall health system? Are we giving extra benefits here that really we shouldn't be giving any more than we give to the general public? It's a matter of fairness. Is the system doing what we want it to accomplish within the greater scope of things, not just in the workplace but in the province of Ontario?

**Mr. I. David Marshall:** Maybe we'll pick up on just the medical piece that you talked about. The workers' compensation system began before there was an OHIP system in Ontario, and so the WSIB pays all medical costs. It reimburses OHIP for anything that's paid in a hospital, for example. When people compare private insurance with ours, they don't remember that we have to pay medical costs, whereas they charge them to OHIP when they can.

We do provide more than what OHIP does. We provide about \$500 million a year of medical benefits, whereas OHIP would only pay for about \$100 million of that. So we're providing a lot of medical care to workers that's not available to a person who was not injured at work, who was injured at a cottage or something like that. But that's necessary; that's part of compensating a person for being injured at work, and that's the judgment of governments over time, and that's what we administer.

It would then come back to whether you want to reduce that; for example, not provide physiotherapy or drug coverage. But then a worker would stay out for longer and you would incur more costs that way. It's something that has to be considered in total.

**Mr. Jim McDonell:** I wasn't really looking at reducing benefits but maybe looking at the other sectors that don't get the benefits. Just because you're not injured at work, if you're injured at home in this province that we're so proud of, should your benefits be reduced? I know that's a philosophical question.

**Mr. I. David Marshall:** Yes.

**The Acting Chair (Mr. Shafiq Qaadri):** Four minutes.

**Mr. Randy Pettapiece:** It's nice to see you guys, especially Ms. Witmer, who happens to be a constituent next to my riding. It's good to see you again.

This morning, the committee heard from a group of Old Order Mennonites and Amish people from Perth, Wellington and Waterloo. They explained that workers' compensation and Bill 119 forces them to participate in a program that is against their beliefs. The federal government has exempted them from paying CPP because of their faith beliefs, and Pennsylvania exempts Mennonites from paying into that state's workplace insurance premium. Is the WSIB aware of the concerns of the Old Order Mennonites and Amish of Ontario? Is granting them an exemption from paying these premiums something you are willing to look into?

**Mrs. Elizabeth Witmer:** We certainly are aware of their concerns. In fact, I have a meeting scheduled with the Old Order Mennonites. I'm aware of the exemptions that they currently get, but I do believe that any exemption that would be determined to be appropriate would need to be a decision made by government. I don't believe it's within the purview of the board to do that.

**Mr. Randy Pettapiece:** When are they meeting with you?

**Mrs. Elizabeth Witmer:** I believe, if not next week, the week thereafter.

We are trying to be responsive to stakeholders who, like the Old Order Mennonites, have concerns about some of the policy changes that are being made.

**Mr. Randy Pettapiece:** Thank you.

**The Acting Chair (Mr. Shafiq Qaadri):** About two minutes left.

**Mrs. Jane McKenna:** I want to say hello to Ms. Witmer. I am selfishly saying that I didn't have the privilege of working with you for very long, but it's unbelievable for you to be at WSIB. They're going to have your wealth of knowledge and all that you bring to that, so that is very exciting for me.

When I sat here today, lots of questions came up, but one of the things was about these 5,000 cases that are backlogged. Being a past MPP, you know how it would be so important to get that looked into and find out, number one—if you can figure out where the problem is, then you can fix it, because how many more are behind that? That is clearly a problem, the backlog of that. So I just wondered, right off the top of my head: What are you doing about that?

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**Mrs. Elizabeth Witmer:** Thank you very much, Ms. McKenna. I can tell you that one of the things that my staff in my constituency office told me before I did accept this responsibility was that over the last number of years they've seen less need for them to become personally involved in WSIB cases. They interpreted that to be a good sign. I'll ask Mr. Marshall to specifically respond to your concern.

**The Acting Chair (Mr. Shafiq Qaadri):** I'll need to intervene there. That's the end of round one of rotations. Now to the NDP: to Mr. Natyshak.

**Mr. Taras Natyshak:** I'd like to put the focus back onto the claims denial process. The board's claims denials rose from 7.9% in 2009 to 11.3% in 2010—in the fourth-quarter 2010 report on page 2. This is an increase of over 43% of claims denied in your fourth-quarter report of 2010. It stated that the increase in claims denial is due to more stringent application of the eligibility criteria. My question is: Has this more stringent application of the criteria continued into 2011-12, and can you provide us with the data as to how many and what percentage of claims didn't meet the eligibility criteria in 2011 and the first quarter of 2012?

**Mr. I. David Marshall:** Yes, certainly. We'd be more than happy to provide that for you. I just want to reiterate that the number of claims that have been allowed has re-



mained steady at about 77% or 78% for about a decade and hasn't changed very much. The denial rate has gone up but the abandoned rate has come down, and they've traded off with each other. That means that we're getting earlier to claims that would have previously have been abandoned by a worker, but we're not classifying that as denied because we've made a judgment on it. There has been a very, very steady rate of claims allowed. The claims are not being denied for any reason other than that they don't apply. I'd be happy to give you those statistics.

I should also tell you that we asked our chief statistician to do a special quality review, a statistically valid sample of eligibility decisions made over a period of time, and his conclusion was that there was a very high standard of quality made on those claim decisions.

**Mr. Taras Natyshak:** Is that public information as well?

**Mr. I. David Marshall:** Absolutely.

**Mr. Taras Natyshak:** I'd like to take a look at that, and I'm sure other members of the committee would as well.

I understand that the 2010 KPMG value-for-money audit said that the increase in claims denial was because of specialized training and management oversight. That's from page 22 of the KPMG report. Do you agree with the KPMG report that the increase in the claims denial rate is because of the new specialized training and potentially some increased management oversight?

**Mr. I. David Marshall:** I think what's happened is, we're getting to more of the marginal claims that used to previously be abandoned and now they're being classified as denied, so the total denied has gone up but the total abandon has come down. There is more scrutiny. There is more discipline, but we don't deny claims that need to be allowed. And that comes back to the quality of the decisions.

**Mr. Taras Natyshak:** What's the process for identifying an abandoned claim, because you had mentioned—I don't know if it was Ms. Witmer who had mentioned—that the majority of claims now are being accessed within 24 hours or decided upon within 24 hours. What gets you to identifying that it's abandoned?

**Mr. I. David Marshall:** All right. Maybe Mr. Slinger in operations will answer that.

**Mr. John Slinger:** Yes, and I think some of this really goes to the change in process we made in 2009 when we specialized a number of functions. We created a specific role called an eligibility adjudicator. Previously, it had been the role of a consolidated adjudicator to be responsible for every decision from stem to stern, from initial entitlement to lock-in, and every issue, including health care, in between.

One of the concerns we had over the 60% increase in costs over a 10-year period while injuries were declining was that in fact we weren't getting workers back to work. We were very passive; we weren't active in terms of return to work. Frankly, one of the things that we learned in a study we did had to do with the relationship between

how long it took you to make a decision and duration. The longer it took you to make a decision at eligibility, the more likely a worker would stay off work longer—

**Mr. Taras Natyshak:** I would agree with that premise, of course.

**Mr. John Slinger:** One of the reasons, of course, was that you had the worker focused more on their disability and getting it demonstrated to the satisfaction of the board and less on getting that worker back. So when we created that group, the work we did with the Institute for Work and Health said—

**Mr. Taras Natyshak:** Sorry to cut you off. Is that group exclusively on abandoned or orphaned claims, or on all? Is that a management group or—

**Mr. John Slinger:** I'm trying to describe to you how the eligibility group changed from one that was done by 800 people to one that was done by 175 people.

**Mr. Taras Natyshak:** So we have less people looking at it—

**Mr. John Slinger:** Right. And the process changed—

**Mr. Taras Natyshak:** Okay, so that—

**Mr. John Slinger:** Do you want me to answer? Here's how the process changed. The process changed to the point where, instead of waiting for forms to come in, which is typically how we do it—we'd wait to receive the paper form 7, the paper form 6—now we made calls and we began to get information very early to allow us to decide—

**Mr. Taras Natyshak:** Was there new, specialized training to enact this type of—

**Mr. John Slinger:** It was an entirely new role; that's correct. The whole objective was to get—

**Mr. Taras Natyshak:** Can we see the constructs of that new role and the mandate—

**Mr. John Slinger:** Of course. We shared information about the model and what it was intended to achieve.

As I say, the role has been in existence since 2009. What we have found is that because we're making those calls and not waiting for the paper to come in, we're getting to cases and we're not having to write letters. It used to be a process where if we didn't get the form, we'd write a letter, and if nobody responded to the letter, we'd treat it as abandoned. Now we actually go out and get the information. So while the denial rate has gone up, the abandonment rate has gone down, but the allowed percentage has remained exactly the same, and if you drew a line you would find it was absolutely flat. Again, the intention was, let's get cheques in the hands of workers sooner—

**Mr. Taras Natyshak:** I'm going to pass it off to my colleague.

**Mr. John Slinger:** —and the result has been, of course, that a far greater proportion are getting decisions in two weeks and cheques earlier than they ever have before.

**Miss Monique Taylor:** Can I just ask how management is overseeing that process; that this is being done and that we know that it's not being pushed off and denials aren't being made on a regular basis? How do



you know that your front-line staff is doing this? They're put under time constraints.

**Mr. John Slinger:** We have teams of from 10 to 12 eligibility adjudicators who report to a manager, and it's the manager's responsibility to review a certain percentage of the decisions they make. At one time, it was 15%; I'm not exactly sure what it is right now. As a result, we have far more oversight and feedback to our staff than we ever have before. Frankly, I don't think there were ever any targets around what number we should be reviewing, and there was a lack of oversight. So we feel very comfortable with the quality of those decisions.

**Miss Monique Taylor:** When the board management oversees decision-makers, is this oversight always documented in the worker's claim file? And if not, why not?

**Mr. John Slinger:** No, it's done as a performance tool with our staff. We communicate that information to our staff.

**Miss Monique Taylor:** Don't you think workers and employers should know who is deciding their cases and how their cases are being decided?

**Mr. John Slinger:** The cases are being decided by the eligibility adjudicators. The managers are looking at those cases to provide ongoing feedback and coaching to their staff around how well they're doing and how well they're applying the law and policy.

**Mr. Taras Natyshak:** It doesn't seem as though it's a cohesive plan, though. It seems as though it's an ad hoc—it depends on the managerial staff that you have over your shoulder at the time; it is dependent on the amount of claims that actually get processed.

**Mr. John Slinger:** No, quite the opposite. We actually have a very fixed structure around—first of all, it's based on the experience level of the staff person. We require more reviews for the less-experienced staff; fewer reviews for the more-experienced staff. But it's very structured, and we document the number of cases that get reviewed and whose cases get reviewed.

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So, unlike the previous process, which really had no structure for oversight, the new system has very clear structure for oversight, and in our view that's all to the benefit of workers, employers and the entire system. We want to be satisfied at the end of the day that we're allowing the right decisions and we're allowing them in a timely manner.

**Mr. Taras Natyshak:** Well, we'd certainly be interested in seeing that structure as it's presented—

**Mr. John Slinger:** We'd be pleased to provide it.

**Mr. Taras Natyshak:** How much time have we got, Chair?

**The Acting Chair (Mr. Shafiq Qaadri):** Nineteen seconds.

**Mr. Taras Natyshak:** I'll cede my 19 seconds. If you want to add it to my next round, that would be great.

**The Acting Chair (Mr. Shafiq Qaadri):** I thank you for your generosity. To Ms. Jaczek and the Liberal side.

**Ms. Helena Jaczek:** Thank you, and thank you very much for your presentation. I think each of us had a long

list of things we would require clarification on, and I'm down to two.

I would just like to pick up a little bit on the case denial issue, because as you've heard through the two days, it has been something that has been concerning to many. I would like to quote directly from OPSEU's presentation: "... it is the WSIB's practice to use off-policy criteria to deny entitlements. I call these criteria, or their source, the secret board policies. The majority of decisions to deny our members statutory entitlements cite criteria that cannot be found in board policy, never mind in the statute."

This is obviously the way that OPSEU sees the situation. Could you try and help us understand why there would be this perception, this idea of the secret board policies? If you could just please try and clarify for us.

**Mr. John Slinger:** Well, that's a bit of a loaded question, because if the question is, why would OPSEU tell you that we're letting go front-line staff who are valuable in the service of workers and employers, I don't know the answer to that question either. There are a number of questions: why we got rid of our ergonomists, when in fact we promoted our ergonomists to jobs with a greater degree of responsibility and more impact on day-to-day return to work.

No, we don't rely on secret policies. We rely on the policies and law of the province of Ontario. We are required in every case to determine whether or not the situation, the injury, arose out of and in the course of employment, and we assess the facts of every case to determine that.

**Ms. Helena Jaczek:** Thank you.

The Office of the Worker Adviser did allude to the potential for some sort of training document, or perhaps the lack of consistency in using eligibility criteria. Is there a very clear list, and is it clearly documented?

**Mr. John Slinger:** I would say we are more consistent now than we ever have been in eligibility decisions. I think the benefit has been as a result of having a smaller group who are well trained and are focused on one particular issue, as opposed to having it the responsibility of 800 people, with no oversight.

**Ms. Helena Jaczek:** Then just one other issue. You've heard that a number of us have been concerned about migrant workers, a particularly vulnerable group of workers here in the province. I'm wondering if you could clarify how WSIB may be handling situations where, as we've heard, people may leave the country and not have opportunities to perhaps return to work, which of course is the goal.

I do recall that there was a very tragic accident. Some migrant workers were being transported to their work site. I'm wondering if you could fill in for us how that situation was handled.

**Mrs. Elizabeth Witmer:** Do you know what? That's a very good question. That was one of the issues that happened close to my home. Actually, I was quite surprised at the type of support that was provided to those



workers by the WSIB. I had no idea that these services and benefits were available.

I'd ask Mr. Slinger to respond.

**Mr. John Slinger:** Obviously, that was a tragedy that no one could have expected to occur. It does serve to raise the whole issue of migrant workers and the fact that there is not a well-coordinated way of dealing with these cases. Some of it has to do with the fundamental nature of the agreements that workers come here on. Obviously, there are federal government agreements. There are different kinds of arrangements. Some go for two years, with multiple employers; some are just seasonal, with a single named employer. They're here on limited visas. Where an injury is sustained, obviously it creates tremendous challenges in terms of the recovery process, getting the right medical, and paying benefits.

I think the Hampstead situation showed even more challenges because, of course, we as the WSIB filled in the gaps in those cases. We dealt with the coroner's office, we dealt with the consulates and we dealt with the funeral homes. We outreached to initial responders around the potential for traumatic mental stress. We also, working through the consulate, had to reach out to the families and the survivors in Peru, up to and including having to assist them in choosing banks that could receive funds.

What all of this served to point out is: It's not a seamless system. It's a system that I think still needs work between the provincial government and the federal government. I would say that one thing we've learned from all of this going forward, and I think the Ministry of Labour certainly concurs, is that we need to work with the federal government—ourselves and the Ministry of Labour and the federal government—so that we have less gaps in the kinds of services that are available to migrant workers, because there's no question that there are some issues that are dropping between the cracks.

**The Acting Chair (Mr. Shafiq Qaadri):** Mrs. Cansfield.

**Mrs. Donna H. Cansfield:** I have a couple of questions.

I just wanted to share something with you. We've had a lot of discussion about the increases—I want to say, kudos. A 32% reduction in claims is something that you should be congratulated on, to be honest, when you go back. I thought to myself, "What difference does this make to me?", so I went and asked my staff. From the year 2004 to 2011, I averaged 10 folks walking in complaining about the WSIB. Their complaints were primarily refusal of coverage, problems with modified back-to-work and, obviously, some who didn't like the pension and the lack of increase. This year, just so you know, I'm at three. I think that's indicative of some of the good things that you are doing.

The most important thing is that the people are not getting injured. I think we should be celebrating that and looking at how we can continue with that kind of prevention.

I wanted to chat a little bit as well around migrant workers. I'm going to say, Elizabeth, that you and I go back a long time. If you'll remember, when there was the NAFTA agreement, we were discussing the issues around child labour with migrant workers on farms and child labour on farms, period, with Mexico, the United States and Canada. You and I had a lot of discussions on how we could change—because it was the babies; they had the little ones picking the onions. Then, of course, it was the mom who had to look after that child at the same time.

That migrant worker issue has been around us a long time, and you were very valuable at the time getting that changed within that area. I just wanted to say: I think that people shouldn't underestimate the value you bring to the job, because there's no way they would've known about your work way back when on that NAFTA agreement when we were dealing with child labour issues and migrant child issues. As I recall—and I'll paraphrase a bit—you used to say, "If they're too small to be in school, they're too small to pick onions." The idea was, they had to be in school, and then they got paid for the work that they did, but you made sure they went to school first. I just wanted to remind you of that, and others, because I think that, on the record, you need to know.

We talked about the Hampstead crash. I think that you, again, deserve credit for the amount of involvement there.

I wanted to ask you a couple of questions. Talk about being confused: We had a delegation that came in, the UFCW, today. They have 250,000 members. It was interesting: On page 4, they indicated that, "Under the old system, the claims adjudicator had the time and the training to make decisions through investigation and the collection of facts"—except, that old system was the outsourced system, not the in-sourced system. I just share that with you. So I was surprised to have a union wanting to outsource or keep an outsourced system that obviously resulted in a longer time frame for claims.

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Then the other—I need to have an understanding of this. You identified that it's the lowest since 1995, and yet the comment here is, "The result? Poor decisions, resulting in more appeals and more backlogs." I'd like you to speak to that. It goes on and it says, "Complicated forms, time limits on decisions and poor decision-making." In fact, it's "not the appeals system." I want to ask you about those questions, and then I also wanted to ask you about the other comment that they are hearing calls—

**The Acting Chair (Mr. Shafiq Qaadri):** Ms. Cansfield, the question will have to remain rhetorical. I now pass it to the PC side. Ms. McKenna.

**Mrs. Donna H. Cansfield:** Okay. It will give them time, and I'll get it next time around.

**Mrs. Jane McKenna:** Or you can do what I'm going to do right now. I'm going to go back to my question that



you were unable to answer because we were out of time, Mr. Marshall. Do you want me to refresh your memory?

**Mr. I. David Marshall:** Yes, I do, please.

**Mrs. Jane McKenna:** Okay. My question was, what are you doing to make steps for the 5,000-plus cases that are backlogged right now?

**Mr. I. David Marshall:** Right, right. Okay. First of all, we make about a million decisions a year, and only 1% are appealed, so let's put that in perspective.

What we've found is that, as we looked at the process, there were a couple of places where you could really make a difference. For example, about 68% of the decisions that are changed on appeal relate to new information that's introduced by the worker that wasn't available at the time the original decision was made. Well, new information is new information. There's no need to invoke the whole appeals process. If it's new information and we can get it to the operations people quicker and get a decision quicker, and kind of get it out of that appeals inventory, that's a big thing that we want to be able to get at and change. That's an example of that kind of thing.

The other one is, advocates for workers would lodge an intention to appeal. The legislation says that they need to do it within six months of the decision. We've been allowing that to drift, so there's really no limit. People are filing an objection to a decision a year or more after and then just letting it sit there. They're not really ready to bring it forward; they are gathering information and so on. Now we've said, "Look, if you want to appeal, you should be ready with your appeal. Otherwise, you're creating a lot of work for everybody to schedule things and so forth." So we've said to them now, "We're going to put you in a hold section until you're ready, and when you're ready, we'll start to look at it."

There are a lot of administrative kinds of improvements like that: new information being streamed quicker, making sure the person's ready before we start to deal with it, and that kind of thing. We think it will be much better in the end for everybody, because they'll get quicker decisions, and the really complex cases will actually get looked at with more time.

**Mrs. Jane McKenna:** Thank you very much. But also today, I think we heard a few times about the front-line workers and how their job descriptions—they were being called, and then they were called back, and they were kind of dismissing it. People were calling to find out where their cases were, and on and on.

One thing that I've often wondered is, if you had your own business, you would definitely have all of your employees on a performance level of how they work, what their performance is and your expectations from your job description, because I think sometimes things get morphed into your job, and all of a sudden you've got an overwhelming amount of things to do, but you're not really sure where your job description is anymore.

Everything has to start at the ground level. Do you believe that there should be a performance level so people

(a) know what they are doing and (b) have an expectation to live up to a certain level of what they are doing?

**Mr. I. David Marshall:** Right. John, why don't you talk to this? John manages the front line, and there's been a lot of work with the unions on a new agreement and so on.

**Mr. John Slinger:** Yes, I think performance management is obviously important. If I go back a few years, again—and maybe this will answer your question, Mrs. Cansfield—we had caseloads that the union certainly said and our front-line staff said were unbearable. Part of it was, "What do you want me to focus on? I have an initial entitlement case. I've got a lock-in case. You want me to do return-to-work; you want me to do health care. You want me to know everything about everything. I can't cope. It's an impossible job."

Certainly, when I took this job in 2007, one of the first things that I was struck by was this: It was almost impossible to set performance standards with our staff because of this overwhelming workload. It was difficult to separate out all of the things that they were responsible for, let alone train them effectively in performing all those functions. I would say that as our roles have become more defined, we've become much clearer in terms of what the expectation is for each of those functions.

We have, over the last year to two years, introduced a new performance management system, which is beginning to get at that notion of: "There are expectations in terms of quality, communication, the number of cases that you're responsible for," and we now need to be able to compare how people are performing and coach and mentor around that and, at a certain point, deal with performance. It shouldn't be a large proportion, but there will always be those who, in spite of the training and coaching, are not performing and need to be dealt with. I think we now have a system that's doing that. When I compare that to the system when I came in 2007 into this job, there was none of that. It was almost impossible. I felt absolutely sorry for our front-line staff. They didn't have a chance.

So I think we do believe that that needs to happen. Certainly, we are encouraged when we receive the report from the Fair Practices Office that said this year that she has seen improvement. She saw a 20% improvement in the cases that she was required to ask us to deal with. Her average turnaround time for complaints, in terms of resolving, was three days. That's encouraging, from the point of view of: It tells us that in fact our staff are responding in a reasonable way.

**Mrs. Jane McKenna:** Yes, because I think, all in all, we assume a lot of things. Just because I have expectations of what I think I want you to do, you might not understand what those expectations are. Communications is nine tenths of all the problems, right? We've all got our silos; we're all in them. We all want things to be better, but who's communicating that out to facilitate that to make it better? So I'm very grateful to hear that you've made those changes. Thank you very much.



**The Acting Chair (Mr. Shafiq Qaadri):** You've still got about three minutes left. Mr. McDonell?

**Mr. Jim McDonell:** If I understand right, I think the current unfunded liability is about \$14.5 billion, from what I hear, which means that it increased somewhere around \$2 billion just last year. With the tools you have, do you think you can turn that around? I guess what we've heard is that if you were a private insurance company, the government would have stepped in a long time ago. Is that a reasonable, I guess, expectation—that we would see this being handled and addressed properly?

**Mrs. Elizabeth Witmer:** I can assure you, Mr. McDonell, that under the capable leadership of Mr. Marshall they have developed a plan. Based on the information that has been provided to not only me but other members of the board, there is confidence that they can achieve the objective of reducing and eliminating that unfunded liability. Perhaps Mr. Marshall might want to give further information.

**Mr. I. David Marshall:** Yes; thank you. The \$2 billion you referred to is a result of changing the discount rate on the liabilities—that is, the expected rate of investment income we could earn—becoming a little bit lower because of market conditions. We have a very defined plan. We have many different projects that are addressing it, including the new medical strategy, the new return-to-work strategy.

One of the big milestones that we passed just last year is that we returned a surplus. That hasn't happened for about 10 years. If you're making a deficit each year, your unfunded liability is growing and growing. For the first time, our revenues were able to cover our costs. Now we have to proceed from there to make a surplus because we've got to find money to pay down the liability. We're proceeding on that path, as Mrs. Witmer said.

**Mr. Randy Pettapiece:** How long?

**The Acting Chair (Mr. Shafiq Qaadri):** One minute.

**Mr. Jim McDonell:** Just one: We talked about bringing employees back to their employers. Sometimes, because of the job, you're just not able to do that, to that employer. Are you able to bring them back to a different employer or a different type of a job that maybe they're better suited to? Is that within your mandate?

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**Mr. I. David Marshall:** Yes, definitely. In fact, it's right in the act. We have to try to help the worker back to their original employer and, if not, to provide them training to enter the general labour market in a suitable job, as good a job that we can do.

That's part of the work transition teams that we have. It's to first go back to the employer, and if there's no hope of finding a job there—and now we'll do something that we never used to do, which is to actually pay for the worker to take training at the employer's premises for an alternative job. We never used to do that; now we do.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Mr. McDonell. That ends round two. We'll now move to the NDP for 10 minutes. Please begin, Mr. Natyshak.

**Mr. Taras Natyshak:** Thank you. Just a quick question off the top. You mentioned the investment fund. Are there any plans to take the investment fund, the balance of the fund, and put it into a pooled fund outside of the purview of the WSIB that would be locked in with other investment funds and portfolios?

**Mr. I. David Marshall:** Right. Now, this was something that was introduced in the last budget by the finance minister. What's driving it is that investment funds that are not very large don't get a lot of opportunities to look at opportunity to invest in infrastructure and other kinds of long-term investments.

**Mr. Taras Natyshak:** Is that a directive that you're pursuing right now?

**Mr. I. David Marshall:** It's not a directive; it's an intention to improve the return and the quality and the stability of investment funds. If and when we do merge with other funds, which is very much done in BC and other places as well, they're still our funds. Instead of having many managers that we hire and pay to manage them, we will have now a provincial manager—

**Mr. Taras Natyshak:** But if you're required to lock them into a portfolio for a longer term, then they wouldn't necessarily be accessible to mitigate any conditions that you had done previously.

You answered my question. I'll cede to my colleague.

**Miss Monique Taylor:** Thank you very much. I just want to touch quickly on what my colleague was speaking to on the return-to-work and making sure that we're getting them suitable positions. I'm going to take you back to my constituent one more time and make sure that, really, everybody understands this. This man has serious brain injuries and has now been told that he can work in a convenience store. I would love for you to meet this man because, sitting across from my desk, there was no way that we could put this person back to work in a convenience store. I'll just leave it at that.

I would like to get into the reversing commitments to workers on full benefits. We've heard troubling stories from injured workers whom the board told in writing that they would receive full benefits until the age of 65. These people relied on this and they planned their life accordingly. Then, sometimes years later, a six-year lock-in approaches and the board changes its mind and tells these workers that they have to go back to work or be retrained. We've heard this has happened to workers even in their 60s and that they were deemed—even when they didn't find jobs.

Can you tell us how many workers the board did this to from January 10 to the present, approximately?

**Mr. John Slinger:** January 10 of this year to the present?

**Miss Monique Taylor:** No, sorry; January 2010 to the present. How many do you think that this has probably happened to?

**Mr. John Slinger:** I will say this, and this goes back to my earlier comment where we had case managers, or adjudicators at the time, who weren't following cases very closely. Some of them, in fact, were writing a letter



at three years, saying, "You're locked in to age 65." Well, of course, not only was that contrary to policy, it was contrary to legislation and—

**Miss Monique Taylor:** But people have now put their lives around this, right?

**Mr. John Slinger:** Yes. That's absolutely fair. But we had an obligation to go back in and look at every case to see if there was an opportunity to get that worker back to work. Frankly, in our view, if we weren't doing that, not only weren't we serving the long-term interests of workers and employers, we were also not following the legislation. Again, it speaks to the fact that we had a model that simply was not working and provided no opportunity to get people back to work in an effective way.

**Miss Monique Taylor:** It would be great if we could ask for a report on that—knowing how old each worker was when the decisions were reversed and how much time had passed since the board had told each worker that they were going to be receiving these full benefits, how many of these workers actually returned to work and at what wage loss, how much retraining was provided to each of these workers, and how many were deemed to be able to work in a job that they didn't have previously.

Taras?

**Mr. Taras Natyshak:** I'd like to move to the appeals backlog issue. I understand that the board's appeals branch has a backlog of over 4,500 appeals that aren't assigned to an appeals resolution officer. Many of these appeals involve injured workers whose claims have been denied. Some workers are at risk of losing their family homes and are forced to rely, obviously, on other social assistance measures such as ODSP.

My question is: Is that number, 4,500 unassigned appeals, correct? And how many other cases are at the appeals branch waiting to be decided?

The second part is: I understand that the delay in the appeals branch is not necessarily a new problem. What has precipitated the board taking so long to actually address the issue?

**Mr. John Slinger:** In terms of the time frames, one thing should be pointed out: Appeals has always maintained a 60-day option. In other words, it will decide any case within 60 days without an oral hearing. If, in fact, a representative—and a significant majority of our workers are represented—wants to have a hearing, then there's first a process whereby they have a discussion with the appeals resolution officer and they discuss how the case can best be resolved through a hearing, through additional information and further investigations.

At a point when the appeals system is operating at regular capacity, there would probably be 4,000 cases. In other words, we think of that as a working inventory of cases that are being worked on. It means that within 30 days, which was generally the rule for many years, a case is assigned, contact is made with the parties and discussion occurs. The average time to resolution, I think, at that kind of inventory, was five and a half months. They are still meeting their 60-day obligations, where someone requires 60 days, but where it requires an oral hearing is

obviously where a great deal of time is being taken right now.

**Mr. Taras Natyshak:** How many appeals resolution officers do we currently have?

**Mr. John Slinger:** There are 90 permanent and probably 10 or so temporary.

**Mr. Taras Natyshak:** Is that down from previous years?

**Mr. John Slinger:** No, that is the same as it has been for—

**Mr. Taras Natyshak:** That's the same, across the board, that it has always been. Is that an adequate amount of resolution officers to deal with the backlog?

**Mr. John Slinger:** No. In fact, we have committed an additional 20 at the outset, and then we will add as necessary.

One of the important things of the new system that we're now in consultation with is to say—really, there are three parts. First is a more robust reconsideration process, so that if you have new information, it gets reconsidered quickly. After that has occurred and the party or representative indicates that they're prepared to proceed, then we, in appeals, will be on a very tight time frame. A hearing will be set within 90 days and a decision within 60 days after that, and if no hearing is needed, then it would be a decision within 90 days. What we've committed to is, under that system, having it resourced as fully as is necessary to meet those time frames.

**Mr. Taras Natyshak:** I'm going to assume that you have done somewhat of an analysis on the effect, and if you have, we'd certainly like to see what that analysis is in terms of front-line decision-makers and the effects that it has on the backlog.

I'm going to quickly switch—I think I have a minute and a half left—to permanent impairment awards. Your fourth-quarter report for 2011 says that there have been 4,000 fewer injured workers who have received permanent impairment awards in 2010. Has the board changed its approach to determining when a worker is entitled to a permanent impairment award, and has it changed its approach to determining the level of permanent impairment awards?

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**Mr. John Slinger:** The significant reason for the reduction, of course, is the 32% reduction in incoming claims over the last three years. That has had a significant impact.

The second thing is the fairly significant improvement in return-to-work rates, particularly in those soft-tissue injuries which were going on to permanent impairment and needn't have been permanent impairment with the right early health care and better return-to-work. I know Mr. Marshall has quoted you a statistic of 91% within a year; three years ago or even two years ago, I think that rate was 85%, so it has increased fairly significantly.

Those are two important things. Then, of course, we believe that the less early narcotics is contributing—



**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Natyshak. I'll intervene there. To the Liberal caucus: Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you very much. Now I can go back. As I said, I was actually quite confused with a number of positions, so I'm going to ask very direct questions.

Under the new system—not the old system—they have indicated that poor decisions are resulting in more appeals and more backlogs. Is that true or is that false?

**Mr. John Slinger:** It's false.

**Mrs. Donna H. Cansfield:** Thank you. The next question I'm going to ask is: They are saying that there are calls for opting out by employers. Have you heard of anything about employers opting out of the WSIB?

**Mr. John Slinger:** I certainly haven't.

**Mrs. Donna H. Cansfield:** Okay; that's good.

This is an interesting one. You need proper funding; we've all talked about the issue of funding. But it says, "This is not the case with the WSIB, which has committed to denying or reducing coverage to workers." Is that a true statement or a false statement?

**Mrs. Elizabeth Witmer:** That's definitely not true. I would say to you that every effort is being made to be responsive to the claims that are filed.

**Mrs. Donna H. Cansfield:** I appreciate that there are different points of view, and I understand the issue around statistics and people needing the opportunity to have legitimate statistics. Actuarial statistics are fairly legitimate. The statistics based on the actuals that you have—your data—are good. So I guess it appears that there needs to be some communication so that we get those statistics out so people have a good understanding.

The WSIB has been in place now for almost 100 years, and the premise of why it's here is to help injured workers. That's everybody's responsibility to be able to do that. I don't think there's anything in the mandate that says that once they're injured they're there forever. At least the people I've spoken to want to go back to work. It's an important part of who they are and what they are in terms of a contribution they make to our civil society.

I'm having trouble at times dealing with the negative—here we have some things to celebrate, you've done some really good things: 32% down in claims; 91% return-to-work. Is there work to do? Yes; you've identified that. Are there ways that we can do it? Definitely: by all working together and listening to really good options that come from all of the stakeholders.

It has been an interesting two days. Maybe I'm the Pollyanna here. I don't know.

The last question I would like to ask you, and then I'm going to let everybody go home early, is: There is a lot of confusion about the insurance. We had a fellow today who is absolutely determined that he had to pay a construction rate for his secretary in his small business. Although it was suggested and shared with him that that was not the case, he was pretty suspicious and very sceptical. So I would really like you to have a bit of a conversation around WSIB insurance, why it's there, the

advantages and the benefits. I think the fact that you can't be sued has to be probably the biggest benefit for any employer, but in particular a small business employer. What is it they can actually do in terms of the need to cover their own—because he spoke directly about the issue as a director. As a director, he needs a different kind of insurance; it's called liability insurance, and that's for running his company. So maybe you could have some clarification for me on the insurance issue.

**Mrs. Elizabeth Witmer:** Before I ask Mr. Marshall to respond, Mrs. Cansfield, I would just say to you that I have committed to visiting all the regional offices in the province, and I've made a good start. I've met with people on the front lines. Obviously, they're part of the new service delivery model. I've also met with individual injured workers, who simply want their claim dealt with.

I would say to you that there is definitely a higher level of satisfaction. There's a lot of enthusiasm about the fact that the injured workers that our staff are dealing with on the front lines are able to return to work more quickly, because, at the end of the day, that is what people are looking for. The staff feel that this new model allows them to be much more responsive. Certainly, the level of satisfaction among the individual injured workers is much higher than ever before.

Mr. Marshall, why don't I let you respond?

**Mr. I. David Marshall:** I think you're quite right. It's going to be important for us to communicate more clearly what we cover and what value we bring to the business. For example, with these new independent operators that are coming in, we have a special rate that I think was about 21 cents or 24 cents—really, really low—for executive officers, who are not going out on construction. So we've taken that into account after hearing about this issue from them.

The fact that you can't be sued is very, very significant. WSIB takes over the claim. We might need to pay that person for 40 years after they're injured, and the employer can go on with their business, having paid their premiums.

There are a lot of benefits that WSIB brings, and I think we should communicate that better.

**Mrs. Donna H. Cansfield:** I want to say thank you for coming and sharing with us your responses to some of the questions. I think we all probably have a whole lot more, but it has been a long couple of days, and I'd like to again just say thank you for the work that you're doing.

I know—and I say this sincerely, because I worked with Elizabeth for a long time—that you've always had an open-door policy, and I don't see it changing. So thank you very much.

**Mrs. Elizabeth Witmer:** And thank you.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you to the Liberal caucus. To Mr. McDonell.

**Mr. Jim McDonell:** We heard earlier that there's a transfer of an amount of money over to the Ministry of Labour for accident prevention. Maybe you could just



clarify what that is and where you see that going. Was that a change last year?

**Mr. I. David Marshall:** Yes. I think you're referring to the amount of money that we transfer to the Ministry of Labour that we call legislated requirements. That is to administer the Occupational Health and Safety Act and the inspectors that the Ministry of Labour has. We transfer just over \$200 million a year, about \$227 million a year, to the Ministry of Labour. That will increase by the amount of prevention activities that we're also transferring to them. There's no net increase. It's simply a transfer of responsibility from us to them. Employers do fund that kind of activity over at the Ministry of Labour through their premiums.

**Mr. Jim McDonell:** Is the process working well? I mean, they're taking over the accident prevention part as well, as opposed to being in your shop, where you're actually involved with the accidents.

**Mr. I. David Marshall:** Yes. Go ahead.

**Mrs. Elizabeth Witmer:** Yes, we are. That was a recommendation that came out of the Dean report, that the prevention function, which had been at the WSIB, would be returned to the Ministry of Labour. That was based on extensive consultation that Mr. Dean had with the stakeholder community in the province of Ontario. That is currently under way. In the process, we are working very actively with the Chief Prevention Officer to ensure a smooth transition to the Ministry of Labour for those functions.

In the meantime, we are continuing to assume responsibility for the safety groups, which is an employer initiative, in order to help make our workplaces as safe as they possibly can be, and also the Workwell audits. Also, our health and safety committee at the board will continue to operate until such time as we are thoroughly confident that those responsibilities have all been transferred and that we continue to do everything we can to help make our workplaces as safe and healthy as we possibly can.

1640

**Mr. Jim McDonell:** With the stats showing that we're the lowest in the country, does that seem a wise thing to do? Is that where it sits in other provinces? Is it counter-productive?

**Mrs. Elizabeth Witmer:** A transfer?

**Mr. Jim McDonell:** Yes, the transfer over. I'm hearing today that our accident rate is actually the lowest in the country. If that's the case, are we looking for big improvements by moving it over? Is that how other provinces do it that are higher?

**Mrs. Elizabeth Witmer:** Sure. Maybe Mr. Marshall has more information about where the other provinces are currently at.

**Mr. I. David Marshall:** They vary quite widely. In some provinces, the prevention function is done within their workers' compensation board, like in British Columbia. In Alberta, it's done at the Ministry of Labour and not at the board. There are variations right across the country.

The basic logic, I think, that emerged out of Tony Dean's consultation with workers—who supported this, by the way, as well as employers—was that it made sense to combine where standards were set and health and safety inspections were being done, and the responsibility for prevention. So there's a logic to put it together so that as you promoted prevention, you could influence legislation and so forth. It can work either way, and it's working either way in different provinces.

**The Acting Chair (Mr. Shafiq Qaadri):** Mr. Pettapiece.

**Mr. Randy Pettapiece:** According to your website, there are 70,000 to 90,000 independent contractors in Ontario and approximately only 10,000 of those contractors have voluntarily registered with the WSIB so far under provisions required by Bill 119. Is that number correct? Can you confirm whether those numbers are correct?

**Mrs. Elizabeth Witmer:** The number of people that are going to be required to—yes, we anticipate it could be anywhere between 65,000 to about 90,000, Mr. Pettapiece. Obviously, no one knows for sure. So far, very few have registered, so I think there is a big task ahead to raise the awareness of the need to register. We will be embarking on a more aggressive campaign in order to raise the awareness of individuals throughout the province of Ontario. I know I've been meeting with groups and certainly reinforcing it. Our staff have been going to meetings in order to reinforce the need to register. That's a huge task that does await us.

**Mr. Randy Pettapiece:** I've been speaking to a few of these people, too, and I know that this only one person, but they're considering not being in business because of this.

**Mrs. Elizabeth Witmer:** Yes.

**Mr. Randy Pettapiece:** He only employs three people, and the costs are up to \$11,000, which is an estimate. That certainly puts a dent into their bottom line. I know you have nothing—this is set in legislation. But it certainly is something that has to be considered, if the legislation is going to have an effect on small business that way.

Who's responsible for collecting these fees in January? Do you know that?

**Mrs. Elizabeth Witmer:** Obviously, it will be our responsibility.

**Mr. Randy Pettapiece:** It's your responsibility?

**Mrs. Elizabeth Witmer:** Because we're responding to the legislative requirement of the bill, from here on in, we'll be administering the recommendations. It will be our responsibility to make sure that people are registered and also that the money is collected from those individuals.

**Mr. Randy Pettapiece:** Do you have a plan right now to go after the people that haven't registered yet, or is that going to be done after January?

**Mrs. Elizabeth Witmer:** Since we still have about six months left, that is something that we will be moving forward with in order to ensure that as many people as



possible would voluntarily register. It's the hope. Obviously, for those individuals who don't, we will have to determine a course of action.

**Mr. Randy Pettapiece:** Can you give us some idea of the penalties involved?

**Mr. John Slinger:** Right now, there is a relatively modest penalty of \$250, but I think there is also the potential for charges to be laid in the event that it's somehow intentional: that in fact, we've been misled or someone has tried to evade.

I will say that we have been pretty clear in all of this that we won't be penalizing anyone, certainly, within the first year, and the big role will be education and getting voluntary compliance. I think it will only be after the first year, if we're having some challenges, that we would think about penalties.

Of course, we continue to have an information-sharing agreement with the Canada Revenue Agency, which will also bring some of those cases to our attention.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you to the PC side.

I would like to thank you, Ms. Witmer, and your colleagues for your—

*Interjection.*

**The Acting Chair (Mr. Shafiq Qaadri):** Actually, yes, you do have about a minute or so.

**Mrs. Jane McKenna:** I just want to ask one question. I asked Mr. Cunningham when he was here, and he told me to direct the question to you, Mr. Marshall. The question is, what is the target rate to fully fund the system? If it's \$2.40 right now for an average assessment, what number do you think that will be? Don't say you don't have an answer, because that means you're not doing your job.

**Mr. I. David Marshall:** I know. We do have an answer, obviously.

I think it's the most innovative attempt to get at the premium rate we're going to announce very shortly. We've done a lot of work on it. We have an actuarial advisory committee, and we've taken our assumptions to them. There will be an increase over the \$2.40—it's not huge—and we intend to announce a rate two years forward so that people have some certainty. If we get our calculations right, we may not need to increase it again for a very long time. We've been paying very close attention to what investment returns we're getting, what the inflation rate is, what we expect employment to do over the next little while. It's a very complicated set of calculations, but—

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Ms. McKenna, and thanks to you, Mr. Slinger, Mr. Marshall and Ms. Witmer for your deputation on behalf of the WSIB.

Before we conclude, I understand we have a motion from Miss Taylor of the NDP with reference to some document requests.

**Miss Monique Taylor:** Yes. Copies are being handed out to all of the committee. It's nothing that you haven't been told about as we've been speaking. Shall I read the whole thing?

**The Acting Chair (Mr. Shafiq Qaadri):** You need to read the whole thing.

**Miss Monique Taylor:** We would like to move a motion that the committee asks the WSIB to table the following documents by August 1, 2012:

—the Deloitte report to the committee, along with any other consultant's report it has received and/or commissioned that deals with assessing worker claims and which might lead to reductions in workers' benefits; as well, the contracts and terms of reference for such reports;

—all new or revised directions to board staff from board management since January 1, 2010, addressing the adjudication of the following issues: loss of earnings benefits; pre-existing conditions; aggravations; recurrences; benefits following work disruptions; permanent impairments; workers approaching the six-year lock-in; and lower back injuries. This should include, but not be restricted to, practice directions, training materials, intranet communications, and memoranda to staff;

—statistical information on re-employment levels for injured workers whom the board has retrained, with figures for the past five years and a detailed explanation as to how he arrived at these statistics; and

—a report for the committee detailing all processes for manager reviews of front-line staff benefit decisions. The report should identify when those review processes were initiated.

Please also produce new reports for the committee showing (a) how old each worker was when the board reversed its decision granting full benefits; (b) how much time had passed since the board had told each worker they would be on full benefits; (c) how many of these workers actually return to work and at what wage loss; (d) how much retraining was provided to each worker; and (e) how many were deemed to be able to work in a job they didn't have.

Please table for the committee all documents that set out predictions as to how changes in appeal procedures will affect the number of workers objecting to decisions and pursuing those objections to appeal.

Please table a report for this committee detailing the number of appeals, both assigned and unassigned, during the past five years and the number of AROs employed at the board month by month for the past five years.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you. By the way, this motion is internal to the committee and not for you, so you are officially and cordially dismissed.

Shall we adopt this motion, as read? Is there any debate for this document-request motion? Shall the motion carry? Going once, twice—is that a yes or a no, Mr. Pettapiece?

**Mr. Randy Pettapiece:** My head's going this way, so no.

**The Acting Chair (Mr. Shafiq Qaadri):** So there will be a vote, then. All those in favour of this particular motion? Those in favour, please vote now. Those opposed? The motion carries.

This committee is now officially adjourned.

*The committee adjourned at 1651.*















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First Session, 40<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Première session, 40<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 15 August 2012

# Journal des débats (Hansard)

Mercredi 15 août 2012

## Standing Committee on Government Agencies

Intended appointments

## Comité permanent des organismes gouvernementaux

Nominations prévues



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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES  
ORGANISMES GOUVERNEMENTAUX

Wednesday 15 August 2012

Mercredi 15 août 2012

*The committee met at 1004 in room 151.*

## SUBCOMMITTEE REPORTS

**The Vice-Chair (Mr. Phil McNeely):** Good morning, and welcome to this meeting of the Standing Committee on Government Agencies. Before we begin our intended appointment reviews, we have a few subcommittee reports to deal with. I'll go to Mr. McDonell for the August 1 report.

**Mr. Jim McDonell:** I move that the subcommittee report of August 1 be moved, and I'll read it now:

Your subcommittee on committee business met on Wednesday, August 1, 2012, to consider the method of proceeding on intended appointments during the summer recess of 2012, and recommends the following:

(1) That a meeting of the committee, pursuant to standing order 108(f)13, be scheduled for Wednesday, August 15, 2012, to consider intended appointments not yet considered which have been selected for review; and

(2) That the clerk of the committee, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

**The Vice-Chair (Mr. Phil McNeely):** Is there any discussion on the adoption of this report? Seeing no discussion, it's carried.

Mr. McDonell again.

**Mr. Jim McDonell:** I move that the subcommittee report dated Thursday, July 5 be accepted.

**The Vice-Chair (Mr. Phil McNeely):** Discussion? Carried.

**Mr. Jim McDonell:** I move that the subcommittee report dated July 26, 2012, be accepted.

**The Vice-Chair (Mr. Phil McNeely):** Discussion? Carried.

**Mr. Jim McDonell:** I move that the subcommittee report dated August 9 be accepted.

**The Vice-Chair (Mr. Phil McNeely):** Discussion? Seeing none, carried.

Thank you. We'll now begin with our intended appointees.

## INTENDED APPOINTMENTS

## MR. KARL WALSH

Review of the intended appointment, selected by the official opposition party: Karl Walsh, intended appointee as member, Ontario Public Service Pension Board.

**The Vice-Chair (Mr. Phil McNeely):** Our first intended appointee today is Karl Walsh, nominated as a member, Ontario Public Service Pension Board. Come forward and take your seat. You may begin with a brief statement if you wish. Any time used for your statement will be deducted from the government's time for questions.

Just to go through the rules, each party will have 10 minutes to ask questions. Questions will start with the official opposition. We'll open the floor and ask you to make your presentation at that time. Would you wish to start, Mr. Walsh, with a statement?

**Mr. Karl Walsh:** Yes, please. Thank you and good morning, Mr. Chair and all the other committee members. I'd like to thank the committee for the consideration that I'm going to be given at some time today. I understand you have a busy agenda, and I wish you the best with that.

I'm honoured to be put forward as the nominee for the position as a result of being put forward by the president and board of directors of the OPP Association. I'm aware that my biography is before you, and I'm happy to amplify on any aspect of it should you have any questions.

I have been with the OPP Association now for approximately seven years, served as their president and CEO, and I am currently now the chief administrative officer. I have served on three boards so far: the board of directors, obviously, for the OPP Association, the board of directors of the Police Association of Ontario and the board of directors for the Canadian Police Association—the latter two being more of oversight, strategic vision and direction.

Anyone that knows me knows that I'm not shy of an opinion, not short of an answer but wise enough to know that every opinion needs to be based on all of the appropriate and available information that's possible.

At present, I manage the staff of our association, I report to our board of directors and I manage a multi-million-dollar budget. As you can see, I have the experience of being on both sides of the fence.



I have the knowledge, skills and abilities of someone who has served in both board governance models. I believe that I can bring all I have to the table, to the benefit of all the plan members.

My sincerity is genuine. I'd like to be on this board, and I will commit to ensuring that the plan is the best it can be through knowledgeable and objective governance.

There's no doubt you have questions. I want to thank you today for your time and extend my gratitude and best wishes for a productive day.

Thank you, Mr. Chair.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Mr. Walsh. We'll start with the official opposition. You have 10 minutes; it's 10:08 now.

**Mr. Jim McDonell:** Thank you for coming forth, Mr. Walsh. I know that many pension plans are unfunded, and I believe this has some unfunded liability, and it's an issue going forward. I'm just wondering if you can expand on some of your qualifications to sit on this board from a financial side and your educational background.

**Mr. Karl Walsh:** Yes. As I said, I'm the chief administrative officer for the OPP Association right now. We have an approximately \$70-million budget. I'm directly responsible for the management of that budget and the oversight of that budget.

Insofar as the plan goes itself, I think the OPP Association is a unique entity amongst stakeholders in pension boards in that we have a lot of direct contact and involvement with those who are responsible for the plan. Each board member has been fully briefed on plan governance, plan details etc. Each board member, and staff member for that fact, that travels throughout the province is constantly challenged to answer questions regarding the governance of the pension plan, calculations on how pensions are arrived at etc. I think I'm well suited to handle many of the questions that come about as a result of member inquiries.

1010

**Mr. Randy Pettapiece:** Thank you, Mr. Walsh, for coming today. Could you describe to us the Harvard Trade Union Program?

**Mr. Karl Walsh:** Can I describe it? Sorry.

**Mr. Randy Pettapiece:** Yes, describe it.

**Mr. Karl Walsh:** The trade union program is run by a professor who is—her name is Dr. Elaine Bernard. She's a Canadian who came from a trade union in British Columbia, who now runs the program on behalf of the Harvard trade union and work life section of Harvard. It's basically a six-week trade union familiarization course. It's not a Harvard course per se. Those who attend don't wear a Harvard ring, for example. It's just a course. It is a very intense course. It has been whittled down from its original iteration, which was around four and a half months long, to six weeks. There are a variety of trade unions that attend, from IBEW, for example, the electrical workers, boilermakers, the policing sector, fire sector. Just about any trade union that's in the public sector attends that course. It covers a variety of issues: political climate, familiarization with the history of trade

unions and how they came about, why they came about, what they've been through and what the state of the union is today, not just in America or in Canada, but all over the world.

**Mr. Randy Pettapiece:** So do you attend that on your own initiative and pay for it by yourself, or are you sent there and it's paid for by somebody else?

**Mr. Karl Walsh:** No, it was sponsored by the OPP Association.

**Mr. Randy Pettapiece:** Sponsored by the OPP Association.

Could you restate your education qualifications and your professional designations for the committee?

**Mr. Karl Walsh:** As I said, I'm a police officer. I'm currently the CAO for the Ontario Provincial Police Association. I have a high school graduation. I have attended a variety of courses. I spent 14 years in the military, 10 years as an active police officer and the last seven years as an executive in our association.

**Mr. Randy Pettapiece:** So you're not a chartered accountant. You don't have anything like that.

**Mr. Karl Walsh:** No, sir.

**Mr. Jim McDonell:** I guess when we look through some of the qualifications that the position looks for, it talks about the need for hands-on investment decision-making experience in at least one of fixed income, public equities, derivatives, trading. It just seems something that, you know—there's no question about character, but it's just that for positions such as this, we should be looking for somebody who has some knowledge in the investment industry or who has worked somewhere in it, especially when we're talking about some of the issues around the public pension plans and where they're going and some of their unfunded liabilities. Any comments on that?

**Mr. Karl Walsh:** Well, my position on the board, as I understand it, is as the stakeholder representative on behalf of the OPP Association and its 12,000 current and retired members. I would expect, as a board, that the board would be more in tune with strategic vision and direction rather than direct investment knowledge—that being left up to those experts within the plan.

Now, a basic understanding of investing: Yes, I have that. As I stated, I manage a multi-million-dollar budget as it is. I don't expect that I will have direct input into investments, but I will have an opinion on whether or not they're appropriate, for example, on behalf of the stakeholders and the plan members themselves.

**Mr. Randy Pettapiece:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, and we'll go to the third party. Miss Taylor?

**Miss Monique Taylor:** Thank you for being here with us today. I was just wondering what motivated you to take on this position.

**Mr. Karl Walsh:** My board of directors put me forward as the candidate. It was an open discussion; it wasn't just a one-way discussion. They asked me if I was interested in doing it and whether or not I had the time to do it, and I do. They're obviously making the time in my



work schedule to make sure that I have the time dedicated to either participate in the committees or the eight annual meetings that the board holds.

Traditionally, what happens is, somebody within our executive is the person put forward as the stakeholder representative on behalf of the association. In this particular case, I was honoured to be asked and happily said yes.

**Miss Monique Taylor:** Okay, good. We definitely have problems within pensions right across the whole country. What is it that you feel that you can bring a different opinion to in making changes to correct unfunded liabilities and troubles that people are facing?

**Mr. Karl Walsh:** I think there's a bit of a communication issue when it comes to the viability and the benefits of a defined benefit program versus a defined contribution program. The reality across the United States right now is that there is a move from DBs to DCs. I don't think that is the correct way or the most appropriate way, especially in Ontario's very fiscally restrained environment right now, to attract people who want to come into government. There are very few things left at this point to attract somebody into public service, and I think one of those main attraction pieces is a well-funded and properly governed defined benefit program. I think what we haven't done is done a good job of educating the public on what those benefits are.

**Miss Monique Taylor:** Okay. Jonah?

**Mr. Jonah Schein:** Do you have any particular dream about what you'd like to achieve in this role? Is there something you'd like to get done or accomplish here?

**Mr. Karl Walsh:** No, I don't have a particular agenda. I'd like to walk away from the experience at the end of the day knowing that all the board members felt that I had something to contribute and that I participated as a member of a team rather than as an individual.

**Mr. Jonah Schein:** But you have no particular goals or agenda that you'd like to accomplish in your—

**Mr. Karl Walsh:** As I said, the communication piece is of concern for me. Obviously, I'm approaching it from a stakeholder point of view. It is something that is causing our members concern. It's something that the public is talking more and more about. No doubt, it was something that was in the last election and is something that will be an issue in this election. So I think the board has a pretty good job ahead of it of making sure that everybody who's running for political office, everybody who's going to be responding to the public regarding these concerns, is as well prepared as they possibly can be to either defend it or vilify it, depending on what their particular ilk is, I guess.

**Mr. Jonah Schein:** Thank you, sir.

**Miss Monique Taylor:** That's everything from us. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** We'll go to the Liberals for their questions. Ms. Jaczek.

**Ms. Helena Jaczek:** Thank you. Mr. Walsh, you've made it very clear that you were approached by your board of directors to be the OPP rep, essentially, on this

particular board. Could you just clarify for us: In terms of remuneration, how is that going to work? You're maintaining your current position, so—

**Mr. Karl Walsh:** I maintain my current position; I maintain my current salary. Any remuneration that's given to me as a result of this position is returned.

**Ms. Helena Jaczek:** So, essentially, zero.

**Mr. Karl Walsh:** Yes, for me, it's a zero gain. Actually, it's more work.

**Ms. Helena Jaczek:** Good. We have no further questions, Mr. Chair.

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much.

Thank you, Mr. Walsh. You may sit there if you wish.

We'll now consider the concurrence for Karl Walsh, nominated as member, Ontario Public Service Pension Board. Would someone please move the concurrence? Ms. Jaczek.

**Ms. Helena Jaczek:** I move concurrence in the intended appointment of Karl Walsh, nominated as member, Ontario Public Service Pension Board.

**The Vice-Chair (Mr. Phil McNeely):** Is there any discussion? Mr. McDonell.

**Mr. Jim McDonell:** I have some concern—nothing to do with the standing of the person, but with the qualifications. I think the times we're looking forward here with some of the issues around public pensions and unfunded liabilities—I just have some concern that we aren't moving with people who have qualifications a little more consistent with what even their own website is asking for.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. Are there other discussions? No other discussions. All in favour? Opposed? The motion is carried.

Thank you, Mr. Karl Walsh.

#### MR. MICHAEL FOULKES

**The Vice-Chair (Mr. Phil McNeely):** Our next intended appointee today is Michael Foulkes, nominated as member, eHealth Ontario. Please come forward and take a seat at the end of the table.

Mr. Foulkes, you may begin with a brief statement if you wish. Any time used for your statement will be deducted from the government's time for questions. Each party will then have 10 minutes, as we've done before. You may start your statement, sir.

1020

**Mr. Michael Foulkes:** Thank you very much. Good morning, and thank you to all the committee members for the invitation to appear here today.

Like everyone in this province, I start with a personal interest in the future of our health care system. My own family extends from an 84-year-old mother to a one-year-old grandson. All of them live in the province, so I start with quite a personal motivation to contribute to the evolution of a system that serves four generations of my family today.



As committee members have seen from my resumé, my background is senior management in financial services and technology, not specifically health care. There are numerous parallels between the two sectors that make my experience relevant to the task at hand. Since retirement from TD five years ago, I've developed governance skills in board roles that span a wide range of businesses, including my not-for-profit role as chair of the Royal Conservatory of Music.

Technology has profoundly changed the way we work, learn and play, and it's reasonable to expect it should have a significant impact in our health care system. In broad terms, this is very similar to the impact technology has had in financial services for the past 30 years, and particularly since the emergence of approachable consumer technologies in the past 15 years. The architecture of health care is strikingly similar to a bank. Each one of us is a specific and unique customer. We use multiple products and services, service providers and delivery channels. We have a very high demand for accuracy, availability, privacy and security, and each one of us has unique needs and abilities in terms of accessing those services. That's the environment I worked in for many years, and it forms the basis of the experience I would bring to bear in this proposed role.

At a practical level, my experience has given me an understanding of the key technologies at a level of scale that is comparable to eHealth. I've been responsible for developing large and complex systems and managing the disciplines and skills required to operate them.

In particular, I've learned the importance of very strong governance and project management to deliver promised and expected systems responsibly. Technology is never free, perfect or yesterday, but good project management minimizes problems in delivering the desired results. I think those experiences are relevant in this proposed role.

Finally, a brief comment on my governance experience: Since leaving senior management at TD, I've built considerable additional experience in board roles and have been accredited by the Rotman/ICD program at U of T. Through study and experience, I've learned the importance of independent boards and board members who are there to represent the best interests of key stakeholders.

In closing, I'm honoured to have been considered for this role and have a genuine interest in serving. I have the capacity and willingness to do so and believe I have a base of experience that can contribute to the process of an important mandate in our province.

Thank you again for the invitation to appear, Mr. Chair. I'd be happy to answer any questions for the committee members.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. We'll start with the third party.

**Miss Monique Taylor:** Thank you very much for being here with us today and taking the time out of your summer, which I know is a little difficult for a lot of people. Thank you for being here.

We all know that we've had serious problems with eHealth, at a great, huge loss to our health care system. What is it that you feel that you could contribute to this committee to make it better?

**Mr. Michael Foulkes:** Well, I think it's principally the experience I have in large systems management and actually delivering in a responsible way what stakeholders expect to be delivered. I've done that in another setting and I expect to be able to contribute to do it here.

**Miss Monique Taylor:** You know, we've been seeing headlines in the paper the last few days about CEOs being offered bonuses for the work that they've done, 25% of their salary in bonuses. He's refused that bonus out of goodwill, I believe, but it was the board itself that okayed this bonus. What are your feelings on that, and would you have thought in a different direction?

**Mr. Michael Foulkes:** The only knowledge I have of this is what I've read in the papers over the last couple of days, so I have absolutely no knowledge of what the detail of the CEO's compensation is, or any of the deliberations the board may or may not have gone through. So I think it would be premature for me to make any comment on that.

**Miss Monique Taylor:** Okay, that's fair enough. But what is your opinion on bonuses?

**Mr. Michael Foulkes:** I think compensation has to be considered in a broad context, which includes the possibility of bonuses. I think they can exist in some settings; they may be inappropriate in other settings. Each one is very specific.

**Miss Monique Taylor:** So you don't think a salary is good enough for the work that they do, that they should get bonuses on top of that?

**Mr. Michael Foulkes:** I think all matters of compensation are absolutely unique to the individual and the circumstances. In some cases, they may be appropriate; in some cases they may not be.

**Miss Monique Taylor:** Thank you, Jonah?

**The Vice-Chair (Mr. Phil McNeely):** Mr. Schein.

**Mr. Jonah Schein:** Sure. Any thoughts or comments on our current state of labour relations in the country? We see a federal government that has been legislating folks back to work, and we're now talking about the provincial government possibly legislating teachers back to work. I'm just curious to know your position on that. Your thoughts?

**Mr. Michael Foulkes:** I'm completely neutral on the topic, as a matter of fact.

**Mr. Jonah Schein:** About the process of collective bargaining and so forth?

**Mr. Michael Foulkes:** I have no strong view in general on either side.

**Miss Monique Taylor:** Could you describe previous experiences that would definitely be helpful towards the eHealth process?

**Mr. Michael Foulkes:** I think the biggest one is large-scale systems experience in a high-security, high-privacy environment. I think that's a fundamental requirement of anything we do with technology in health care. I have



considerable experience in that particular area. That's what financial services IT looks like. Those are some of the highest requirements.

Project management is a really big one. That is the way to get big IT systems delivered in an appropriate time frame, basically on time and on budget. I've done a lot of work in that particular area and have been responsible for some very large systems projects.

**Miss Monique Taylor:** Do you have any of your own goals or aspirations that you see that you could make that system better, as it is right now? How can we make it broader for making sure that people who are using the system are getting the best possible answers they need? Is there anything particular that you could make it better with?

**Mr. Michael Foulkes:** I just bring the experience that I've got in actually doing this in a setting where we try and meet a lot of different stakeholder requirements, including accessibility, privacy and security. I have that experience to contribute to the overall board in their oversight role of what happens within eHealth.

**Miss Monique Taylor:** All right. Thank you very much.

**The Vice-Chair (Mr. Phil McNeely):** We'll go to the government side. Ms. Jaczek.

**Ms. Helena Jaczek:** Thank you very much for coming today. We have your resumé, and you've elaborated a little bit on your experience in terms of finance and IT. But I notice that you have also, I guess since retirement, become quite involved with a number of boards. Could you just elaborate a little bit on some of your governance experience in terms of being on a number of boards?

**Mr. Michael Foulkes:** Certainly. I'm coming from a large corporate background, where governance is a part of the environment you live in, so I have some latent exposure to it from that part of my career with TD. Since then I've joined several boards, as I think the committee knows. I've also gone through the accreditation program at U of T for directors.

It's actually a big change going from management to governance because you're going from hands-on to nose-in, effectively, if you will, so you're going to an oversight role. The things I'm involved in are quite diverse, but they are all relatively highly regulated, first of all, particularly First Nations Bank or the Canadian Depository for Securities. They all have fairly high-risk and reputational issues around them that boards of directors have to be very conscious of and involved in. It has really been some latent experience from my past life plus study and participation today.

**Ms. Helena Jaczek:** I'm intrigued about that University of Toronto accreditation course. Could you elaborate a little bit on that?

**Mr. Michael Foulkes:** The Institute of Corporate Directors is an organization that was formed some years ago now, but it is basically a body to represent the interests of directors. One of the significant things it does is promote an educational program for directors. It

operates in all major cities across the country and in three or four different universities, including U of T. It's a program of four long weekends of specific study related to finance, governance, human resources, IT, succession planning and so on. There's an examination you have to pass to get the accreditation, and then there's annual re-accreditation, somewhat like being a chartered accountant, where you have to take ongoing education to maintain the accreditation.

**Ms. Helena Jaczek:** Thank you very much.

**Mr. Michael Foulkes:** Thank you.

1030

**The Vice-Chair (Mr. Phil McNeely):** Thank you, and we'll go to the opposition. Mr. McDonell.

**Mr. Jim McDonell:** Thank you for coming out today. I know that your qualifications are quite impressive for the position. I guess, knowing how eHealth has been in the news—the Auditor General reviewed it with, I guess, a lot of disdain for the money and the value for the dollars that has been lacking. What are you hoping that you'll accomplish by taking over this role?

**Mr. Michael Foulkes:** I think my primary contribution is experience. I take the governance role quite seriously. I'm quite aware, from media reports, of everything that's happened before.

I think I look at this as very much a forward-looking assignment. I think it's consistent with other public service things that I've been involved with previously. But I hope to contribute the background I've got in developing effective technology that delivers customer service in another field. That's something that's really important for us all in health care, and I think I can contribute to that through that past experience.

**Mr. Jim McDonell:** I guess one of the issues has been oversight back—do you have any ideas on how that could be improved, or what would be a reasonable amount just to ensure that, I guess, value for dollar is actually attained through the organization? Health care is certainly top of mind with everyone in this province, in this country. It's something we're very proud of, but, again, trying to get the most out of these scarce tax dollars is really the key.

**Mr. Michael Foulkes:** In broad terms, I think we will all benefit if technology is effectively deployed in health care. It's one way to make things more accessible and more manageable over the longer term.

As it applies specifically to eHealth, having not sat on the board yet and participated in the process, I can't comment specifically on what has been done to improve value or, more specifically, what can be done. But at a board level, the principles of governance are the things that should protect stakeholders—in this case, taxpayers and consumers in Ontario. That comes about through an effective board that is engaged, that measures things, that looks at performance, that makes sure performance is achieved.

So I'm looking at this, in fairly pure terms, as a director, that that is your role, that you have to apply your



judgment to something that's good or something that isn't as good.

**Mr. Jim McDonell:** Just one final question: Privacy becomes an issue, and, of course, you weigh your privacy with health, and I think studies show that people would forgo the privacy issues when it comes to making sure that they're healthy and they get the best that the system can provide. Any comment on that? You're trying to bring together so many records; there's always that privacy issue. But at the end of the day, when you walk into a hospital, you want to know that the doctor has the best information on you, especially if you're unable to relate any of the information to them.

**Mr. Michael Foulkes:** I think privacy is a huge issue, just broadly, in technology. We should be telling our kids a lot about technology as it applies to things like Facebook and other things, and these are poorly understood.

I think we just have a responsibility to make sure that privacy is explained in very clear, transparent terms so consumers make informed choices. The design of whatever system is knit together in the province has to respect privacy but also the broad needs of when people are expected to consume services, to your point. You don't want to be finding out that you've ticked the wrong box at the inappropriate time. We have to make sure we craft privacy rules to make sure that the right things happen in the right way.

**Mr. Jim McDonell:** Just an example of eHealth: I sat on a board where we went out and chose a provider for our electronic records. We hired a consultant. There were 12 different agencies involved, provided by the province, to choose from. The consultant chose one that was fairly popular, and within six months the company was bankrupt and we had to start all over again.

It seemed like not only a waste of money and a waste of resources, and, then at the end of the day, with nothing. Is there something about bringing these together that—there was a lot of consideration not to give any recommendations on which one to choose. But really, in the eHealth business, again, you want the best bang for your dollars. Surely the experts who work there must have some recommendations that don't force every subscriber to the service to go out and try to choose a supplier at the end of the day.

**Mr. Michael Foulkes:** Specific to a vendor that goes bankrupt, sometimes your risk oversight can identify that that might be a problem; it doesn't always. There have been some notable bankruptcies in technologies of very large companies, so there's no guarantee that you'll always pick the right one.

Just about every major system is an integration problem. Even in a bank—everything wasn't invented in one day; it was invented over 30 years. So you're constantly putting things together. In very basic terms, the best way to get integration is to have standards, so then, regardless of which product you choose, it has to adhere to a certain standard, and those are usually standards about, in simple terms, how things talk to each other.

**Mr. Jim McDonell:** I guess what I might have been looking for here from the ministry, which was more involved in that type of thing, is some guidance on what a primary choice might be, instead of leaving it to a board to go out and do the research from scratch.

Anyway, I'll turn it over to my partner.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Pettapiece.

**Mr. Randy Pettapiece:** On a personal note, I have four grandchildren and I have two of them with broken arms right now, so we've had quite a summer that way. In fact, one had a helicopter ride down from Owen Sound to London over her broken arm. I guess what I'm getting at is, we can't say enough about the professionalism of the helicopter crews and the staff at the hospital and the ground troops, how they treated the kids and how they looked after them. It's been very exceptional. But when we get into this business, the eHealth and whatever else and all that's been going on over the years with Ornge, eHealth and whatever, that's the frustrating part about the health care system that a lot of people see.

You have a lot of technical experience, and it's very impressive. But do you think you'd be able to bring to the board a sense of professionalism that can translate into the higher echelons of the health care system, so that we can stop wasting these dollars and get the job done? I think that's something that has to be asked.

**Mr. Michael Foulkes:** I don't know if I can personally make that message go anywhere else other than the board that I'm being asked to sit on. My interest here is to bring some background and experience into a place where I think it can help, but I'm a member of a board of, I think, 12 people. I have extensive experience in collaborating in that type of environment and influencing in that type of environment, and I hope to be able to share some of that influence with the colleagues that I hope to be joining.

**Mr. Randy Pettapiece:** I guess when you're selecting technology—and I'm certainly not one to do that—it sometimes can be quite difficult, selecting the right one—I can understand that—and things can go wrong.

I would like to see a board member base their decisions on "this is the right product, because it will do the job," and not on "somebody else is telling me to do something because they want something else." I wonder if that's been going on a little bit in the health system. It gets a little on the political side, is what I'm getting at, and I would hope that—do you think you can keep the technology selection process—make it like a business decision more than anything else?

1040

**Mr. Michael Foulkes:** I think, in basic terms, boards have to apply independent oversight to decisions that management is making, and they have to apply independent oversight to the strategic plans that management brings forward. That would fall into either of those categories, really. The strategy has to be sound, and the choices have to be consistent with that strategy and based on fact, merit, proper research and analysis. I think those are the types of things that the board has to look at.



I don't specifically know how the health methodology works, but it would be my expectation that for any large purchase or any large commitment, those are the types of oversight criteria that a board would apply; those are the types of risk criteria that would be considered.

**The Chair (Mr. Phil McNeely):** Thank you. The 10 minutes are up, but thank you for your presentation. Now you may take a seat in the back or stay where you are.

We'll now consider the concurrence for Michael Foulkes, nominated as member of eHealth Ontario. Would someone please move the concurrence? Ms. Jaczek.

**Ms. Helena Jaczek:** I move concurrence in the intended appointment of Michael Foulkes, nominated as member, eHealth Ontario.

**The Chair (Mr. Phil McNeely):** Thank you. Any discussion? Seeing none, shall the motion carry? Carried.

#### MR. MATTHEW WILSON

Review of intended appointment, selected by third party: Matthew Wilson, intended appointee as vice-chair, Ontario Labour Relations Board.

**The Chair (Mr. Phil McNeely):** Our next intended appointee is Matthew Wilson, nominated as vice-chair, Ontario Labour Relations Board.

You may start with a statement, sir.

**Mr. Matthew Wilson:** Thank you. Good morning, members of the committee. Thank you for the opportunity to appear before you today. I understand that you have a research package that has information about me in front of you. I'd like to take a couple of minutes to expand upon the experience that I believe would contribute to my candidacy as a vice-chair at the Ontario Labour Relations Board.

I am currently counsel for two large hospital corporations. My practice is exclusively labour and employment law. Prior to this role, I was counsel for a large municipality east of Toronto.

In this capacity as counsel, I have appeared before the Ontario Labour Relations Board. I have appeared in front of labour arbitrators and the Ontario Human Rights Tribunal, as well as several other statutory tribunals.

Throughout my professional career, I've pursued academic interests. I have a master's degree in law and a master's degree in industrial relations. This has enabled me to teach at the university level. I'm the editor of a textbook that is widely used by lawyers and arbitrators on evidence and procedure in statutory tribunals. Perhaps most applicable to this role is my experience as a nominee on arbitration boards. I have sat on arbitration panels and have been part of the adjudicative process. This, in my view, has provided an excellent experience to prepare me for the role of vice-chair for the labour relations board.

That's a very brief overview of my experience, but I'm happy to take any questions from the committee. Thank you.

**The Chair (Mr. Phil McNeely):** Questioning will start with the government, and you have eight minutes. Ms. Jaczek.

**Ms. Helena Jaczek:** Thank you. We certainly will not require eight minutes.

Obviously, you've had a great deal of experience, especially, as I read this, in the field of human rights mediation. Could you just expand a little bit on what you can actually bring to this board in that sphere?

**Mr. Matthew Wilson:** Sure. The labour relations board doesn't have jurisdiction over human rights complaints specifically. However, that is something that all adjudicators must be aware of. My experience is quite broad in terms of representing employers in human rights matters, both at the tribunal as well as in front of labour arbitrators. I've also done extensive research and publishing in the field of human rights law as it has been developing over the last 25 or 30 years.

**Ms. Helena Jaczek:** What particularly motivated you to seek this position? It sounds like you've had some interesting opportunities previously and currently. Why this move now?

**Mr. Matthew Wilson:** The labour board is a very highly regarded board across the country in terms of being a labour tribunal. It's looked upon as setting an example across the country. Frankly, I want to be a part of that. It has got a very positive reputation in the labour relations community, and I believe that through my experience I can contribute to that.

**Ms. Helena Jaczek:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** We now go to the official opposition. You have 10 minutes.

**Mr. Jim McDonell:** Thank you for coming up and for applying to this position. You're certainly well qualified in the role. What do you see that you can bring to the board? Is there some direction you would like to see, maybe changes in the future or anything? Any comments on it?

**Mr. Matthew Wilson:** At this point, I'm not familiar with the internal workings of the board. However, I have a reputation of being somebody who is fair, and I certainly would like to contribute to the board in being impartial. The board has a wide array of statutes that fall under it, and I believe that with my experience I can contribute to that in terms of adjudicating issues that come before the board under those statutes.

Part of why the board has such a positive reputation is that it has very good policies that it has developed. Certainly, my experience and research has been on procedural rules as they apply to statutory tribunals, so I certainly hope to be able to contribute to that.

**Mr. Jim McDonell:** I'm fine, thanks.

**The Vice-Chair (Mr. Phil McNeely):** No other questions? We'll go to the third party. Mr. Schein? Oh, Miss Taylor; sorry.

**Miss Monique Taylor:** Thank you for being here with us today and taking the time out of your summer and, I'm sure, a very busy schedule. My questions are regarding some bills that we have before the House today.



Previously, the Liberal government brought in card-based certification for construction trades. Bill 79, which has been brought forward now, is to expand that right across the board. Could you give me your thoughts on that?

**Mr. Matthew Wilson:** I'll confess I haven't read the draft legislation and I'm not intimately familiar with it, so at this point, I don't have an opinion.

**Miss Monique Taylor:** You have no opinion on card-based certification?

**Mr. Matthew Wilson:** Oh, card-based certification obviously has existed in Ontario; it does exist in some jurisdictions across the country. There are going to be two sides of the argument on why card-based certification is appropriate in certain industries. I don't have a personal opinion on card-based certification. I've never been in a role where I needed to have a personal opinion about that. I'll take the opportunity, though, to advise the committee that the role of the vice-chair is to interpret and apply the legislation in place, and I certainly am committed to doing that.

**Miss Monique Taylor:** Go ahead.

**Mr. Jonah Schein:** I do have a question that I actually asked previously. The government themselves have stated their concerns about intervening in collective bargaining and that there has been a ruling in British Columbia, and the decision to override collective bargaining rights actually cost taxpayers \$85 million in that province. The government in the past has expressed concerns about going down that route with public sector workers here, and now we're hearing that they might in fact do that with teachers in Ontario. I'm wondering about your thoughts. Would this potentially cost more if the government goes down this route of legislating contracts for teachers?

**Mr. Matthew Wilson:** I don't know. I'm sorry to give you a vague answer, but I really don't know the answer to that.

**The Vice-Chair (Mr. Phil McNeely):** Further questions?

**Miss Monique Taylor:** Yes. What particular contribution do you plan on bringing to this board?

1050

**Mr. Matthew Wilson:** As a vice-chair, I have a statutory obligation to interpret and apply the legislation and facilitate the board's mandate, which is to have a role in labour relations in the province, and that's to facilitate collective bargaining and also to adjudicate disputes that fall under those statutes that come under the board. With my experience and certainly my enthusiasm, I intend to do that.

**Miss Monique Taylor:** From what I've read in the notes that have been prepared for us, most of your positions—I believe all of your positions—have definitely been on the company-based side. Do you feel that you would be able to be fair in your judgment when it comes to the labour side?

**Mr. Matthew Wilson:** Yes, without question. In the labour law field, practitioners tend to practise on one side or the other—either on the trade union side or on the

employer side. The majority, if not all, of the current vice-chairs would have had an exclusive practice on one side or the other. That being said, that doesn't mean that everybody personally believes in that movement or cause or whatever word you want to use to describe it. As counsel, you need to have a degree of impartiality, because you need to be objective in examining circumstances to advise your client. A good lawyer will be able to see both sides of the issue.

I have worked very hard in my career to have a reputation of being somebody who is fair and who can see both sides of the issue. I have a good reputation among both employer-side and trade-union-side lawyers as somebody who is practical, pragmatic and can work in resolving disputes and settling matters. So, yes, I'm quite confident that I can do that and, frankly, follow in some of the footsteps of individuals whom I hope to be joining as colleagues on the board.

**Miss Monique Taylor:** Do you feel that forcing labour back to work—I mean, it has definitely been something that has been happening. Air Canada: We're legislating workers back. Do you believe that those kinds of things should be left at bargaining tables, do you believe that the government would have the right to legislate those circumstances or do you think that they should be left to the labour boards?

**Mr. Matthew Wilson:** Well, the labour board—as a vice-chair, the position that I'm applying for will have no broader role than to apply legislation that's in place. Even for legislation passed by a government that constricts collective bargaining, it would be hard for me to see how that would come in front of the labour board. That's something that the board wouldn't specifically have jurisdiction over.

At this point, I don't have an opinion about that, and I don't see that the board would have a role in that at this time.

**Miss Monique Taylor:** All right. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. Further questions? No? That finishes the questions. Thank you, Mr. Wilson.

We will now consider the concurrence for Matthew Wilson, nominated as vice-chair, Ontario Labour Relations Board. Would someone please move the concurrence? Ms. Jacek.

**Ms. Helena Jacek:** I move the concurrence in the intended appointment of Matthew Wilson, nominated as vice-chair, Ontario Labour Relations Board.

**The Vice-Chair (Mr. Phil McNeely):** Any discussion? All in favour? Opposed? The motion is carried.

#### MR. SHARAD MISTRY

Review of intended appointment, selected by official opposition party: Sharad Mistry, intended appointee as member, complaints committee and discipline committee of the Council of the Registered Insurance Brokers of Ontario.



**The Vice-Chair (Mr. Phil McNeely):** Our next intended appointee today is Sharad Mistry, nominated as member, complaints committee and discipline committee of the Council of the Registered Insurance Brokers of Ontario. Please come forward, as you're doing, to take a seat at the end of the table. You may make a brief statement. Any time used for the statement will be deducted from the government's time for questions.

Proceed, Mr. Mistry.

**Mr. Sharad Mistry:** Thank you for giving me this opportunity to come and present myself. I'm sure you've looked at my package, but I'll just quickly run through my qualifications and experience.

I'm a chartered accountant, qualified in England initially. I moved to Canada, and I subsequently obtained my CA here.

I worked with Deloitte and Touche for a while and then moved to a company called Dylex Ltd. back in 1991. After the restructuring of Dylex, which I was quite heavily involved in, I started my own consulting firm, where I hired myself out as a management consultant and CFO for organizations. I've worked in a number of industries: pharma, R&D, start-up companies, high-tech companies, manufacturing and apparel manufacturing. Currently, I'm in the oil and gas business. A lot of these companies were listed or are listed on the TSX or on NASDAQ.

On the volunteer side, currently I'm on the board of directors and treasurer of a nursing home called Mariann nursing home; it's a Catholic Health Corp. of Ontario organization. In the past, I was a founding board member of South Asian Family Support Services; that's going back a few years. I also spent some time working with the United Way on agency funding reviews.

I joined the board of the Registered Insurance Brokers of Ontario back in 2005. In 2006-07, I became the chair of the finance committee. I am one of the public members on the complaints committee and have attended numerous sessions over the years. Over my time with the RIBO organization, I have become a little familiar with the brokerage industry. I enjoyed working with RIBO on the board and hope to continue that type of relationship on the discipline committee.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Mr. Mistry. We'll start with questions by the official opposition.

**Mr. Jim McDonell:** Thank you for coming out today. According to the RIBO 2010 annual report, broker trust funds are the second largest source of complaints investigations by the committee. Could you please describe what these trust funds entail and why so many investigations stem from them?

**Mr. Sharad Mistry:** Brokerages are required to have a trust fund set up so that the monies that are coming in from clients, which are subsequently going to the insurance companies, don't get commingled with the operational funds that the brokerage may use for the day-to-day running. The money is held in trust for the insurance company, and at some point, that should be

remitted. It turns out that some brokers may or may not be able to manage that, either through errors or through neglect. That's a concern. If the funds don't go over to the insurance company, then there's a question of whether the insurance has actually been bound for that particular client, so the client is exposed.

**Mr. Jim McDonell:** Insurance premiums, of course, are a major issue in Ontario. Could you talk, based on your experience with RIBO, about some of the issues around, for instance, fraud and what direction you see taking to stem some of these problems?

**Mr. Sharad Mistry:** I'm not sure I can quite answer that. Every fraud that occurs is obviously costing the insurance company money. For instance, we talked about the trust funds; there have been instances where funds have been misappropriated by the broker. However, the insurance company has stepped in and bound the coverage just so the client who's making a claim doesn't suffer. That obviously is costing them money where they haven't actually had the premiums in place. Yes, I guess that's one of the factors, I presume, that will impact insurance premiums.

I'm also thinking it's not the only one, as cost of buildings, replacement costs—obviously, the cost of those are going up, and then presumably the insurance premiums will go up to match those.

1100

**Mr. Jim McDonell:** Okay. A question from you.

**Mr. Randy Pettapiece:** Yes, I have a couple. Thank you.

You actually have no experience in the insurance business, other than being on RIBO.

**Mr. Sharad Mistry:** No. I'm a public member on the RIBO board.

**Mr. Randy Pettapiece:** You're a public member.

**Mr. Sharad Mistry:** I was. Sorry.

**Mr. Randy Pettapiece:** Pardon me?

**Mr. Sharad Mistry:** I just finished my term, so I was a public member.

**Mr. Randy Pettapiece:** I see. Can you give us an idea of what you've learned about the industry, not being in the insurance business, and what you think you can bring to this appointment?

**Mr. Sharad Mistry:** Obviously, I've learned a little bit about the insurance industry. I wouldn't say I'm an expert in the insurance industry. I understood the way brokers are working and the business they're in. I've sat on complaints committees where it's a predecessor to somebody going to the discipline committee. I've heard complaints on what's been happening with a client or with a broker against a broker.

What I think I can bring to it is, I guess, a non-industry view. I've been in business since I qualified as a CA. I've been in numerous businesses, so I'm bringing that experience as well. Being a CA and working with public companies, there are some governance issues that I can also bring to the table.

**Mr. Randy Pettapiece:** Working with this organization—RIBO is what I'm talking about—do you feel



that brokers and RIBO are given enough tools to do the work they're doing and protect consumers that way?

**Mr. Sharad Mistry:** I'm not sure I can quite answer that question, not being in the industry and not having a first-hand—RIBO is there as an organization that's always supporting the brokers. If any brokers have any issues, that support system is there for them, either with a technical issue or with an insurance company or with other brokers. It's there as a support system. So I—

**Mr. Randy Pettapiece:** I guess what I'm getting at is, from your experience on this board, have you had complaints from the brokers that they just don't have the means to get to where they want to go?

**Mr. Sharad Mistry:** No, that I haven't come across. Obviously, the—

**Mr. Randy Pettapiece:** Are they being held back by government or something like that?

**Mr. Sharad Mistry:** Not to my knowledge.

**Mr. Randy Pettapiece:** All right. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. We'll go to the third party. Miss Taylor.

**Miss Monique Taylor:** Thank you for being here with us today. Being a member of RIBO must have definitely given you some kind of insight into how the complaint process works for this committee. So what was it about this committee that drew your attention, that you wanted to be a part of it?

**Mr. Sharad Mistry:** Well, I guess over the years that I've been with RIBO and worked with the complaints committee on numerous occasions—I wouldn't mind keeping that connection with RIBO going. I think I've learnt enough on the complaints and being on the board that I think I can contribute on the discipline committee.

**Miss Monique Taylor:** Do you feel that there were definitely things that you've seen were being done right or wrong or things that you would like to change?

**Mr. Sharad Mistry:** On the committees that I am on, I guess we're looking at an issue that's brought to RIBO, which then brings it to the complaints or the discipline committee. So I'm not sure I'm in the position to make changes per se; I think I'm in a position to evaluate the evidence and evaluate the investigation that's happened and evaluate the client's confirmation or their statement as to what happened and then make a call to see whether it should go to discipline or whether there should be a discipline action at work or they should be dismissed.

**Miss Monique Taylor:** You've seen the process, so you must have seen things that you possibly thought were right or wrong?

**Mr. Sharad Mistry:** I think you kind of have to give me—I'm not sure exactly—because usually, when things come to us, it's wrong. Somebody has done something wrong or somebody is accused if something's going wrong, so we're kind of evaluating to see if there's some case or some merit to that.

**Miss Monique Taylor:** But would you have done things differently than what you've previously seen? That's maybe the basis of my question: You've seen that it happened this way. Did you disagree with things that

you just thought, "This isn't right, and this is something that I would do differently"?

**Mr. Sharad Mistry:** I haven't come across that, no.

**Miss Monique Taylor:** Okay. We definitely have huge insurance costs across the province, I believe the highest, almost, in Canada.

**Mr. Sharad Mistry:** Probably.

**Miss Monique Taylor:** Do you find that you would have any position or any insight on how to make things better for the people of this province? And do you have any goal or ambitions to make the insurance better for people?

**Mr. Sharad Mistry:** On the committees that I'm on, I don't really think that's the role I would play. If I was still on the board, then I guess that might be, but on the committee that I'm looking at, the complaints and discipline committee, I'm not sure I have a say in what happens in the insurance industry.

**Miss Monique Taylor:** Those kinds of discussions happened on RIBO?

**Mr. Sharad Mistry:** Yes. RIBO gets connected with the other financial bodies that are around, and we hear what's been going on in the industry and what the brokerage position is and where they want to go with that. Obviously, it's something that we would contribute to—

**Miss Monique Taylor:** Would you mind if I asked your position when it came to those conversations when it came to the rates of insurance? Demographics in the province are topped up in ways that sometimes just don't even make sense, and we have people in certain areas paying triple the costs of what people are paying in other areas, just for where they live. What's your position on those kinds of deals?

**Mr. Sharad Mistry:** As a consumer, I'd obviously like to see the insurance rates lowered, but I don't see a board like RIBO being able to influence the insurance industry to change their rates. I mean, the insurance industry—there are other bodies that would probably have a lot more say in it.

**Miss Monique Taylor:** That's it. Thank you very much.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. We'll go to the government for questions. Ms. Jaczek.

**Ms. Helena Jaczek:** I'm delighted to see you're a director on the Mariann Home. I'm very familiar with that long-term-care facility; I've visited. Glad to know their books are in good shape.

**Mr. Sharad Mistry:** Getting there.

**Ms. Helena Jaczek:** Good.

In terms of your experience as a director, obviously you've alluded to the time you spent on the council as a public member. Coming to the end of that term, you became aware of this opportunity at that time?

**Mr. Sharad Mistry:** Actually, RIBO asked me whether I'd be—

**Ms. Helena Jaczek:** They actually suggested?

**Mr. Sharad Mistry:** They asked me whether I'd be interested in coming on the discipline committee.



**Ms. Helena Jaczek:** How many years, then, were you on the board of RIBO?

**Mr. Sharad Mistry:** I started in 2005.

**Ms. Helena Jaczek:** So about seven years—and then they gave you the suggestion, essentially.

**Mr. Sharad Mistry:** Yes. They asked me if I would consider coming on the discipline committee.

**Ms. Helena Jaczek:** Any particular sort of preparation or training in terms of looking at disciplinary matters that you've had through the years or something that you can particularly bring to this area?

**Mr. Sharad Mistry:** Well, I used to be an auditor at one point. I guess there's risk; there's looking at systems; there's looking at the kinds of issues that you come across. Obviously, controls in managing a business are always there, so I think that kind of background helps. Also, I think for a good part of the years that I've been on there, I've been on at least two to three complaints committee hearings per year. We have a lot of material to read through. We have two brokers on the panel as well, and discussions take place, so it's kind of learning on the job. I'm not sure that there's any training that you get.

We also have legal counsel for RIBO, in-house counsel, that obviously advises us on the law or on the regulations that RIBO has put out that matches with what's being discussed.

**Ms. Helena Jaczek:** Okay. Thank you. No further questions.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Ms. Jaczek, and thank you, Mr. Mistry, for being here today.

We'll now consider the concurrence for Sharad Mistry, nominated as member, complaints committee and discipline committee of the Council of the Registered Insurance Brokers of Ontario. Would someone please move the concurrence? Ms. Jaczek.

**Ms. Helena Jaczek:** I move concurrence in the intended appointment of Sharad Mistry, nominated as member, complaints committee and discipline committee of the Council of the Registered Insurance Brokers of Ontario.

**The Vice-Chair (Mr. Phil McNeely):** Any discussion? Seeing none, all in favour? The motion is carried. Thank you.

We have finished the morning's work, so we are recessed until 1 p.m. this afternoon, back here in committee room 151. Thank you.

*The committee recessed from 1111 to 1301.*

**The Vice-Chair (Mr. Phil McNeely):** Welcome back, everyone. We're now resuming our consideration of intended appointees.

#### MS. HANIA AMAD

Review of intended appointment, selected by official opposition party: Hania Amad, intended appointee as member, complaints committee and discipline committee of the Council of the Registered Insurance Brokers of Ontario.

**The Vice-Chair (Mr. Phil McNeely):** Our next intended appointee is Hania Amad, nominated as member, complaints committee and discipline committee of the Council of the Registered Insurance Brokers of Ontario.

You're at the table. You will have a brief statement; then we'll go to questions, and we'll be starting with the third party. Please start your statement, if you wish.

**Ms. Hania Amad:** I'd like to thank the members of the committee and everybody who is present here to allow me this opportunity to come and present myself as an applicant to the complaints and discipline committee at the Registered Insurance Brokers of Ontario.

I'd like to start by giving you a brief description of my background qualifications—

**The Vice-Chair (Mr. Phil McNeely):** Excuse me; could you put your speaker a bit closer?

**Ms. Hania Amad:** Sure. This much?

**The Vice-Chair (Mr. Phil McNeely):** Yes, thank you.

**Ms. Hania Amad:** I'd like to start by giving you a brief description of my background and qualifications and how I ended up at RIBO and my interest as far as remaining as part of the discipline and complaints committee.

By education, I'm an engineer. I graduated in computer engineering from McGill University. I'd be hesitant to mention the year because this will go formally on record, but it's 1986. Following my graduation, most of my experience has been in the aerospace sector. I've worked extensively with Spar Aerospace, the company that, in my opinion, at least on the science side, has put Canada's name on the map by providing the Canadarm to NASA for the building of the International Space Station and then, after that, more advanced robotic arms that continue to actually do a very good job, with Canada's name and flag right on it.

While at Spar I was very interested in pursuing higher education, so I've gone ahead to do my MBA degree. I graduated from Western university's Richard Ivey School of Business in 1999 with an MBA. I decided to also try other venues of employment, so I've left since then the aerospace sector and joined more the commercial side.

I'm currently the director of quality engineering at Advanced Micro Devices. This is an American company; it's based in Austin, Texas. Basically what we do is, we provide processors and graphic processors that you probably are using on a day-to-day basis in your laptops and in computers and so on.

That's basically my background and my experience.

I have been a member of the council at RIBO for the past six or seven years. Right now, I have an interest, obviously, in remaining as a member of the discipline and complaints committee with them, to continue my work with the team. It's an excellent team; excellent organization.

That's briefly what it is.



**The Vice-Chair (Mr. Phil McNeely):** Thank you very much. We'll go to the third party and Miss Taylor.

**Miss Monique Taylor:** Hi.

**Ms. Hania Amad:** Hi.

**Miss Monique Taylor:** Thank you very much for being with us today and giving up some of your summer hours to come and discuss some of the concerns that might possibly be at the table today.

You were on the board of RIBO previously, and obviously you've seen misconduct cases come before RIBO that get passed to the complaints committee. Do you feel that things were done correctly? When answers came back from the complaints committee, do you feel that you would have done things differently? Do you see a different insight of what you could do differently?

**Ms. Hania Amad:** I think the process that is established at RIBO right now is a fairly mature process. Definitely, there has been improvement in the years that I have been there—I would say maybe on the technical side, in terms of the distribution of material, us capturing the results of the complaints committee after the fact electronically rather than having to handwrite things and go through additions through handwriting. There have been improvements, I would say, that have come along, but I would consider the process to be fairly mature.

Looking back at whether I would have done things differently or not, it's on a case-by-case basis. But I feel, considering the membership of the panel, the two insurance brokers and my emphasis as a public member to make sure that we do things on the right track from a public member's perspective rather than from the agency's or council's or the insurance brokerage's perspective, that was definitely the role that I carried in that capacity.

**Miss Monique Taylor:** Taking that experience now to the complaints process or the complaints committee, how do you feel that you would fit into that position? Is there a particular portion that draws you there? What was your reasoning for wanting to be there?

**Ms. Hania Amad:** I have served as a member of the complaints committee while being a member of the council, so I have very good experience, having held that position in the past six or seven years. I was also introduced to the discipline committee on a couple of cases where there wasn't a public member available who would fill that position. My interest right now is to move more into the discipline committee and gain experience and offer some of my skills towards that forum as well. I feel very comfortable with that, having been in that environment for the past six or seven years.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Marchese.

**Mr. Rosario Marchese:** "Hah-nee-ah" or "Hah-nyah"?

**Ms. Hania Amad:** It's "Hah-nyah."

**Mr. Rosario Marchese:** Hania, I have a question.

**Ms. Hania Amad:** Sure.

**Mr. Rosario Marchese:** One of the complaints that we hear about from brokers is that they're not as independent that they used to be. The point of independence

is to be able to get the best price for the consumer, that they're able to shop around to different insurance companies to get the best price for the consumer. In the last couple of years, we've picked up complaints from brokers saying that insurance companies are putting pressure on them by way of either ownership or by way of even referring loans to a particular insurance company over another. That seems to move away from the independence of the brokers. The question is: Do you have any knowledge of that? Have you heard about that complaint? If you have, how would you deal with it?

**Ms. Hania Amad:** I haven't heard about that complaint as a member of RIBO, because really, how would a consumer shop for insurance—I know we have very strict guidelines in terms of: When you shop around, there shouldn't be anything that would sway a member towards one company versus the other through financial rewards. That does come to the surface once in a while, and I'm aware of it that way. Really, my role in the complaints and discipline committee is more focused on the adherence of the insurance brokers to the act to make sure that they conduct themselves in an ethical way, that they adhere to the act, and the financial position—

**Mr. Rosario Marchese:** Sure. Right. So, Hania, the point is that they're supposed to be independent. If they are not, how do you deal with that? I'm assuming you're going to get this complaint as a matter of presumably complaints and/or discipline. Did you have an opinion, or are you saying that once it comes to you, you will review it based on whatever knowledge—

**Ms. Hania Amad:** I'm saying that the role of the complaints committee is to check all the facts that are in front of it on a particular case—all the facts, all the circumstances, all the recommendations, all the correspondence with the insurance brokers and all the correspondence with the investigating committee. You have to deal with it on a case-by-case basis. My role is to make sure that the facts are clear, there are no holes, it is well presented, and I can make a judgment based on it during my presence in that committee.

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**Mr. Rosario Marchese:** The independent brokers are—we're expecting that they're doing a study. They haven't yet released their study, but we were expecting it, and so you'll probably hear of it. I thought I would bring it to your attention because if indeed it is happening, as I believe it is, then there is a problem. I presume you'll hear it and you'll need to deal with it. Thank you.

**Ms. Hania Amad:** I thank you for bringing it to my attention.

**Mr. Rosario Marchese:** Thank you, Chair.

**The Vice-Chair (Mr. Phil McNeely):** Any further questions?

**Miss Monique Taylor:** No.

**The Vice-Chair (Mr. Phil McNeely):** We'll go to the government side. Ms. Jaczek.

**Ms. Helena Jaczek:** Thank you for coming today, and thank you for your many years of service on the council itself of RIBO.



I'm kind of intrigued that an engineer with an MBA would spend so much time in particular related to insurance. Is it a particular interest of yours, or how did you happen to think about your initial involvement? Just flesh out some background for us.

**Ms. Hania Amad:** The background, really, is that I have very strong experience in project management, very strong financial experience through my MBA, and obviously very strong technical experience. The experience that I brought to RIBO really covers all these three aspects.

I should mention, also: Most of my training in aerospace, and right now in the commercial section, centres around quality assurance, which means putting processes and procedures in place for companies to conduct their operations and making sure there are adequate checks and balances in these processes for the continued viability of the company, the health of the company and so on, and that is really the strength that I brought to RIBO. We've worked on, as an example, the guidelines for the insurance brokers: how to conduct their businesses, how to deal with other brokers; on the training manual; on the technical side in terms of bringing state-of-the-art technology into RIBO itself. This was my contribution to RIBO and my interest in having been there.

I also served on the financial committee to review their various financial statements and make sure that all the checks and balances are also applied to that kind of review.

**Ms. Helena Jaczek:** Maybe you could just tell us a little bit more about your other position: as a director of York victims' services, I believe.

**Ms. Hania Amad:** I have a strong interest in community work. I spend a lot of time with engineers, and that doesn't cut it for me anymore. It is a community-based board. It's not a public appointment. York region victims' services deals with all victims in York region, whether it's assault, rape, murder. I work very closely with the police, with the OPP, to just make sure that the support that is needed for victims in York region is well applied through this organization.

**Ms. Helena Jaczek:** Thank you very much. That's all our questions.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. We'll go to the official opposition. Mr. McDonell.

**Mr. Jim McDonell:** Thank you for appearing today. During your years at RIBO, do you feel that the board and the agency had the tools to steer the insurance business in the right direction, or are there any tools that you think that they need in addition to what they have today?

**Ms. Hania Amad:** I think, like I said, there have been a lot of improvements in four or five years. To just give you a couple of examples, the insurance brokerage membership is very widespread across Ontario, and to reach everyone by the traditional way of paper and pen sometimes wasn't the most conducive or best way to do that. There have been improvements in the website.

There have been improvements in the issuance of the quarterly publication from RIBO to inform the brokerage membership as far as what is the recent news and what's going on, including the publication of certain discipline committee cases.

Members right now can apply online and pay their fees online. That wasn't something that was available a couple of years ago. Right now, this is available, and it makes firms' lives easier.

So I think we're on the right path. Whether there are improvements that can still happen: absolutely. I believe, from my educational background and work experience, that continuous improvement is always needed. I don't think you can just say, "This is it, and we can't move forward with other things."

**Mr. Jim McDonell:** What do you see as some of the challenges facing RIBO, and where you would like to see it go in the future?

**Ms. Hania Amad:** I think to continue to keep up with the technical aspect of reaching the wide range of membership may be a challenge. The staff that can handle the discipline and the required number of staff that can actively go out and visit the membership offices, particularly the principal brokers, may be also a point to look into.

**Mr. Randy Pettapiece:** I just have one short question. Insurance premiums, and particularly auto insurance, are topics that stir a lot of debate in Ontario. Do you think that you have the experience at RIBO to help with the challenges facing the auto industry in Ontario? What I'm getting at is, we have some of the highest insurance rates in this province in Canada. I'm just wondering if you have some ideas on how we can maybe get some of these things under control and help the insurance brokers do that.

**Ms. Hania Amad:** I may have personal, I guess, opinions on that, but these would be personal. My role with RIBO hasn't really dealt with the—nor do I expect my membership in the committee right now, whether it's the discipline or the complaints committee, to address premium issues.

Usually, the complaints that we get are more on the conduct level of an insurance broker who did not carry out his duty in accordance with the act or in accordance with the manual that RIBO has set out for these people. But we don't come across cases where there are complaints about premiums. I think this would be more a FSCO or an IBAO issue.

**Mr. Randy Pettapiece:** I see. Would you get involved with the fraud cases that are happening now in Ontario with insurance agencies?

**Ms. Hania Amad:** Do I get involved?

**Mr. Randy Pettapiece:** Involved with that type of—

**Ms. Hania Amad:** I only get involved in the complaints cases that I'm asked to attend. I may not be privy to all the complaints cases that pass through RIBO. There is a rotating panel of public members. I'm only privy to the cases that I sit on.

**Mr. Randy Pettapiece:** I see.



**Ms. Hania Amad:** If it's a fraud case that affects RIBO in general, it is usually brought in during our board meeting and discussed that way by the general manager, and everybody becomes aware of it at that level. But if you're talking about specific cases, unless I actually sat on the committee, I may not necessarily know the details.

**Mr. Randy Pettapiece:** I see. So you haven't been involved in any of these types of cases?

**Ms. Hania Amad:** I haven't been involved in any of these cases.

**Mr. Randy Pettapiece:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. That ends the questions. Thank you, Ms. Amad, for being here.

**Ms. Hania Amad:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** We will now consider the concurrence for Hania Amad, nominated as member, complaints committee and discipline committee of the Council of the Registered Insurance Brokers of Ontario. Would someone please move concurrence? Ms. Jaczek.

**Ms. Helena Jaczek:** I move concurrence in the intended appointment of Hania Amad, nominated as member, complaints committee and discipline committee of the Council of the Registered Insurance Brokers of Ontario.

**The Vice-Chair (Mr. Phil McNeely):** Are there any discussions? Seeing none, all in favour? The motion is carried.

#### MS. CAROL PHILLIPS

Review of intended appointment, selected by official opposition party: Carol Phillips, intended appointee as member, Pay Equity Hearings Tribunal.

**The Vice-Chair (Mr. Phil McNeely):** Our next intended appointment today is Carol Phillips, nominated as member, Pay Equity Hearings Tribunal.

Please come forward and take a seat. You may begin with a brief statement. The time that you use will be taken from the government's time. Each party will then have 10 minutes to question you. You may start.

**Ms. Carol Phillips:** Thank you. I'm very pleased to appear before the parliamentary committee on public appointments, maybe for a different reason than a lot of people who appear here, and that is because this process was part of what I helped with establishing in my time in the Premier's office about 20 years ago.

I have a very brief statement, and then I look forward to your questions and I'll do my best to answer.

As you may have seen from my resumé, I've spent the majority of my working life within the trade union movement, where I had the privilege of serving in a variety of roles.

I've been the chief spokesperson for the union in many sets of negotiations over a 30-year period in a vast range of sectors, from aerospace to universities. At various times, starting with when the Pay Equity Act

came in during the late 1980s, those negotiations have included pay equity issues.

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I moved up the ranks and was privileged to act as an assistant to three presidents of the CAW and with two at the Canadian Labour Congress in Ottawa. I was a senior adviser to the Premier of Ontario, Bob Rae, with special responsibility for agencies, boards and commissions.

I've also served over the years on several provincial and national bodies, such as the late, lamented National Round Table on the Environment and the Economy, the National Advisory Board on Science and Technology, and the Canadian Labour Market and Productivity Centre.

In my time with the CAW and the CLC, I had the opportunity to travel extensively, serving on various expert committees with the International Metalworkers' Federation in Geneva and the international trade union congress in Brussels.

Since January 2009, I've been a member of the Ontario Labour Relations Board, which, like the Pay Equity Hearings Tribunal, is an administrative tribunal as well.

I think that the experience I've gained in resolving and deciding numerous cases will be valuable to the Pay Equity Hearings Tribunal at this time. Combined with my experience in bargaining, compensation and benefits, and a commitment to advancing gender equity, it would seem that this cross-appointment to the Pay Equity Hearings Tribunal might be a good fit, but that's certainly for you to decide. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, and we'll go to the government side. Ms. Jaczek.

**Ms. Helena Jaczek:** Thank you very much for coming here and, in fact, being instrumental originally, as we understand it, in establishing this particular process.

Could you expand a little bit further on the fact of this being a cross-appointment between the labour relations board and the pay equity tribunal—what you see that this really brings, based on your experience and so on?

**Ms. Carol Phillips:** They're both tribunals that hear cases at the end of a process, where attempts have been made to either mediate or mitigate or narrow down the issues. That's what I've been doing over the last nearly four years at the labour relations board. The Pay Equity Hearings Tribunal has the same kind of functions.

Physically, we actually are in the same building, on the same floor. The chair of the Pay Equity Hearings Tribunal is a vice-chair at the labour relations board. I work with her, and have worked with her on occasion on similar issues.

**Ms. Helena Jaczek:** I think Ms. MacCharles has a question.

**Ms. Tracy MacCharles:** Thanks for attending today. I was just saying to Dr. Jaczek that I have been out of the loop a bit on pay equity since my HR days in government and other sectors. But since being elected this fall, one thing I've heard from the not-for-profit sector, which often is made up of salary and wage dollars primarily, is their ongoing challenges to meet pay equity obligations.



I'm wondering if you can tell me a bit about your knowledge of that situation and any thoughts you have on how that could or should move forward.

**Ms. Carol Phillips:** I don't claim to have any specific knowledge on that kind of a situation. Certainly, at the labour relations board, we do meet some of the same challenges with employers from the not-for-profit sector, very often with the employer being a volunteer board who comes before the labour relations board because they are obligated to act within the meaning of the Labour Relations Act itself. I think that some of the experiences I've had there, I'll be able to apply to the Pay Equity Hearings Tribunal; I hope so.

As the labour force is changing, as the working environment is changing, there are lots of challenges, like volunteer boards, like agencies, like a variety of workers whom we would have termed as more vulnerable, who are, however, entitled to the same rights under the legislation.

**Ms. Tracy MacCharles:** And that indeed seems to be the challenge in this sector—as you say, a more vulnerable sector, one that is fairly dominated by women in some parts of the sector, yet I'm hearing these huge pleas that they're unable to meet their ongoing obligation. I'm not, obviously, looking for a specific answer today but just wondered what your thoughts are on how manageable that is as a government, as a board going forward, recognizing that they don't have many other dollars other than those salary and wage dollars to work with to meet their service delivery needs.

**Ms. Carol Phillips:** Other than just to acknowledge that it is an ongoing problem, that an awful lot of it has to do with funding cuts and also with funding limitations on being able to fundraise in the charitable sector these days. I can only commiserate and hope that we can find resolutions. I think that's one of the strengths of tribunals: having the employer representative, the worker representative and the vice-chair with the specific knowledge of the law itself.

**Ms. Tracy MacCharles:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Ms. MacCharles, and we'll go to the official opposition. Mr. McDonell.

**Mr. Jim McDonell:** Thank you for appearing today. I see you had a long history with the CAW. Any reason why you decided to move on and over to different roles?

**Ms. Carol Phillips:** You can see that I outlasted five presidents at various levels. With the CAW, it was a fabulous experience. I got to work with some of the more interesting characters in trade union life: Bob White, you may remember; Buzz Hargrove.

It was timely. I was 55 years of age, and it was an opportunity to move into a position with the labour relations board—in fact, nearly four years ago—where I could play a different kind of role than an advocate.

**Mr. Jim McDonell:** With your long association on the labour side, do you see this affecting any of your ability to—you're now on a tribunal that has to look at both sides of the argument and come up with a fair

ruling. Do you see that role as being something that you can uphold?

**Ms. Carol Phillips:** I think it's a very reasonable question, and four years ago I think I asked myself that when I went to the labour relations board. Since then, having had the opportunity to be part of a panel that dealt with such issues as the Vale Inco strike, which lasted over a year, and the fallout from that strike, and come to a majority decision with my employer counterpart and the vice-chair, I'm very comfortable working within the parameters of the act to try and either encourage the parties to find their own resolution, which is always best, or, if necessary, to come to a resolution which makes labour relations sense and, in the case for this tribunal, pay equity sense for both the employer and the workers.

*Interjection.*

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much. We'll move on to the third party. Mr. Marchese.

**Mr. Rosario Marchese:** Nice to see you, Carol.

**Ms. Carol Phillips:** Hi. How are you?

**Mr. Rosario Marchese:** I'm good, most of the time, including today.

This is indeed a challenge. Tracy was alluding to it as a huge problem, and it has been a problem for many, many years, and it continues to be a problem in spite of the pay equity legislation. We're not just talking about wage discrimination in general, but in this particular aspect of where women ought to receive equal pay for work of equal value and they still don't. It's a serious challenge, and this economic environment makes it worse because there's going to be an attempt to fight these efforts to arrive at some pay equity for women in general. So I'm particularly nervous and worried about the ongoing wage discrimination.

Lately, I just saw from the research, which was nicely compiled, where the Divisional Court of Ontario recently upheld a tribunal decision which found that women may earn less than men doing jobs of equal value so long as their earnings equalize when they reach the top of the pay scale. The court noted that the Legislature intended for the act to redress systemic wage discrimination, but it does not consider elimination of all discrepancies between comparably valued male and female jobs. The court acknowledged that the Pay Equity Act may be subject to a Charter of Rights and Freedoms challenge because of its under-inclusiveness, which leads us to the conclusion that the government has to do something about the language; otherwise, the ongoing discrimination will continue to happen in spite of the current pay equity legislation. Do you have a view on that?

**Ms. Carol Phillips:** I read that decision with interest myself. One of the challenges that we have at the labour relations board is that we have to act within the Labour Relations Act, but we also have to consider the Charter of Rights and Freedoms and we have to consider the Human Rights Code as well, and the implications that they could have on the act itself. I think in a number of areas the government is looking at some of the possible incon-



sistencies that still exist there—that it is an ongoing process—and that they are going to be dealt with.

As I had to learn with the Labour Relations Act, it is within that act that we can make decisions, and it will be within the Pay Equity Act that we will be able to make those kinds of decisions.

So it's very healthy still, I think; however, the women's community and equity community in Ontario—we saw that with the changes to the health and safety legislation for the right to refuse on sexual harassment, the amendments that came in just a few years ago, that acts can be ongoing and updated.

**Mr. Rosario Marchese:** Yes, of course. Thanks, Carol. Good luck.

**Ms. Carol Phillips:** Thank you.

**Mr. Rosario Marchese:** I'm not sure whether Monique—

**The Vice-Chair (Mr. Phil McNeely):** Miss Taylor.

**Miss Monique Taylor:** I don't really have any questions. I just have comments saying that I'm welcoming your voice to this board, with all of the work that you've done previously, and I know that you will work hard on that board. I have faith in you to do that in the voice of equity and making sure that we are holding the government to account of how we're going to change the things that we're facing, because it's going to be a tough one. All the very best to you.

**Ms. Carol Phillips:** Thank you very much.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Ms. Phillips, for being here today.

We will now consider the concurrence for Carol Phillips, nominated as member, Pay Equity Hearings Tribunal. Would someone please move the concurrence? Ms. Jaczek.

**Ms. Helena Jaczek:** I move concurrence in the intended appointment of Carol Phillips, nominated as member, Pay Equity Hearings Tribunal.

**The Vice-Chair (Mr. Phil McNeely):** Any discussion? Seeing none, all in favour? Carried. Thank you.

We'll take a short recess now while we wait for the next candidate.

*The committee recessed from 1333 to 1350.*

**The Vice-Chair (Mr. Phil McNeely):** This meeting of the government agencies committee will now resume.

#### MR. JAMIE REAUME

Review of intended appointment, selected by official opposition party: Jamie Reaume, intended appointee as member and chair, Ontario Food Terminal Board.

**The Vice-Chair (Mr. Phil McNeely):** Our next intended appointee is James Reaume, nominated as member and chair, Ontario Food Terminal Board. You have come forward. You're at the table. You may begin with a brief statement if you wish. Any time used for the statement will be deducted from the government's time for questions. After that, each party will have 10 minutes to ask you questions. Questioning will start with the official opposition.

We'll open the floor and ask you to make a presentation if you wish now. Thank you very much for being here.

**Mr. Jamie Reaume:** Thank you. Again, I do apologize for being on time. I didn't realize that you were running early.

My name is Jamie Reaume. In the role that I play in real life, I'm the executive director with the Holland Marsh Growers' Association. One of the prerequisites for the Ontario Food Terminal Board is actually a functioning knowledge of agriculture and agri-food. In this situation, I represent probably one of a half a dozen people in the entire province who work within all sectors—I'm not sector-specific. I work with agribusinesses, agri-retail; I work with everybody within the value food chain. I also work with all partners along the way inside the cities of Toronto and throughout the province. Specifically, I'm in probably one of the few agricultural organizations that works with environmental and NGO groups. In that capacity, what we do is try to educate and provide that balance that's required sometimes, and the societal need.

For the food terminal position, anybody that's involved in the fruit and vegetable industry, specifically myself, we understand when appointments arise—we take a look at where mandates are moving. We look at government policy.

The role that I play with my board is that I am a conduit of information. I provide them with the most up-to-date information. I also provide them with perspectives of 20,000, 10,000, 5,000 and ground roots. That's a requirement in understanding the food industry from the complex side: right from the farmer's field right to the retail shop and right to the consumers.

That being said, when we noticed that the positions were arising, it was felt that, perhaps, instead of sitting in the coffee houses complaining, as so many do, we'd take the opportunity, after 40 years, and be proactive about it. Hence, that's how we actually applied. It was a little surprising to me, and I'll be the first to say, that I was actually selected to be presented here today.

We are a very non-partisan organization. We deal with all parties. I have dealings with all parties and know some of the members here, actually. That being said, I don't view food as a non-partisan issue; more so, I view it as a societal issue. We need to start looking at some of the outside boundaries and be very proactive on how we approach our needs within Ontario, and service the requirements of both the farming community but also the consumer end of that. That's a vital role of what we have to do, and I take that role very seriously.

With that, I'll end my statement and allow for questions.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Mr. Reaume. We will now go to the official opposition. You have 10 minutes.

**Mr. Jim McDonell:** Thank you for coming out, Mr. Reaume. We've seen a lot of changes in the agricultural industry in the last number of years, and some of that has



come through innovation within and some through government grants and university help. Do you have any comments on some of those changes and where you see future changes being required?

**Mr. Jamie Reaume:** I believe we're at a juxtaposition within what we do with food. We're seeing a real—and I hate the word that I'm going to use—dichotomy within the system. For my guys specifically within the Holland Marsh, when I originally started, we only grew 40 crops. That doesn't include the varieties. We're now well over 60. We have 64 crops, and we're testing all the time. We're growing for a population that really wants to have a taste of home. We have a large population that is migrant in base, whether you're from the UK, where we just had a seed rep up from the United Kingdom, or whether we're dealing with India or any of the Asian countries. We are seeing that and we are seeing a trend toward that. We're also seeing a larger trend toward local food because of the freshness and the health value that's attached.

My organization and my board specifically believe that there's the connection for the government, for all parties within the government: being able to rid some of the health care costs by eating healthier. We grow health. That's what our job is. I think there's more of a role down the road in providing that essential value—very much an economic value as well, but an essential value—to the consumers, that there is a healthy opportunity, and I think that's partly where the food terminal comes in. Some 976,000 tonnes of food come in, and 25% of that is Ontario. We need to look at some of this stuff and say, "Hey, how can we do better?" We can't sit in the countryside and complain about it. We need to do something about it.

**Mr. Jim McDonell:** I think you are on record for mentioning some of the issues with government control over the marsh and the number of municipalities and the different levels. Any further comment or explanation on those comments?

**Mr. Jamie Reaume:** Well, for those who aren't aware, I work in the Holland Marsh, which is the most heavily regulated piece of land in all of Canada. I deal with 14 federal ministries, 20 provincial, five municipalities, one county and one region that really don't get along. I deal with two conservation authorities, 119 rules and regulations, 28 major pieces of legislation—soon to be 29, with the Great Lakes protection plan. As I've always said, if anybody wants my job, they're welcome to it.

That being said, we're also working with all the parties to provide solutions, and that's our role. We're not here to complain; we're here to make things better. The marsh tends to be a beachhead for many of the things that take place. What happens in the marsh has direct implications to all of Ontario. If we don't have people standing up and actually helping and moving the yardsticks forward, we're not going to win. We provide the solutions that are viable and necessary.

**Mr. Jim McDonell:** I take it that your opinion would be that it's overregulated, and maybe some of the

examples—is it fully farmed? I'm not that familiar with the site itself, but what percentage of it is actually farmed and what are the real concerns behind it? Farming is a fairly green industry.

**Mr. Jamie Reaume:** In your case, we're not eastern Ontario, so we're not good at growing pasture and rocks as much as what we used to, but we have 18,000 acres considered to be the Holland Marsh. In that context, we grow 12,000 acres plus. The majority of crops are carrots and onions. Approximately 43% of all of Canada's production comes from the Holland Marsh on those two products alone.

What we see are the requirements by all forms of government to come in line with the 21st century. That's the reality that we deal with. None of us are ashamed of what we do. None of the farming community wishes to go back 100 years. As a matter of fact, I'm also on record as stating that. What we did in the Holland Marsh today could not be done when it originally started in 1929 if we were to undertake that same venture today. It just wouldn't happen under the rules and regulations that are applicable to the farming community.

That being said, if we had to look at rules and regs, the terminal board is something that I think needs to have people speaking on behalf of farmers. I also believe that, in the context of what's there, government needs to be aware of the unique situations that farmers are in, and we are unique. We are one of the fundamental cores of life; we're producers of food. We're also very good with the environment. We also are very good with water. There's three of the four that are required. If you looked at it far enough, we're producers of oxygen because we have lots of crops that grow and give us oxygen. So there's four for four that we did. And that's one of the things that we look at: where we can make a difference. That's where we can make a difference. That's where we can make a difference, in the context of what's there.

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Are we over-regulated? We're overregulated just in context of what the government puts in place. Every jurisdiction has different regulations. Every jurisdiction that we deal with, from China to Mexico to the United Kingdom to the Netherlands, all have their own stipulations and rules and regs that they have to apply to as well.

**Mr. Jim McDonell:** Some of the grant money that has gone back to your industry to help with innovation does not always find the departments or the organizations that are really there to help and actually have been siphoned off sometimes. Any comments on that?

**Mr. Jamie Reaume:** Really? Functionality speaking, grants, funding, anything that we're able to leverage—we've been doing that basically almost a six to seven to one for our industry. Does every dollar go through? There are always administration costs that go through it. Is every farmer happy that there are administration costs? No. In the organization that I serve and function with, every dollar goes back into the farming industry; every dollar goes back into the farming community. We take great pride in that.



We're also leaders in innovation when it comes to finding ways to leverage dollars from Vineland. We have a number of test trials from there.

We believe, and it's sincere, that innovation and research are the keys to moving agriculture and, in this case, food and farming forward. That's the truth. That's what needs to be done, and we haven't done it in 30 years. We haven't really made a concerted effort. When you think about the amount of time that it takes to actually have research projects that function—I mean, it took 26 years to grow a pear, just a specific variety. I'm now amazed that people are eating blue wheat, which took years to duplicate. But it's a functionality of what we require, yes.

So the funding is always an issue, especially with ag organizations and ag research and innovation.

Even in my own industry, even with my own organization, we're doing really innovative stuff. We're looking at phosphorous projects. We don't see any of that money; we just channel it through and make sure that the results come out for the best management practices for our farmers.

**Mr. Jim McDonell:** Growing up in eastern Ontario, I've seen a lot of changes in agriculture and some of the crops we grow. Crops that we couldn't grow 25 or 30 ago are now being grown in great abundance. But you're right: There were many changes, but the rate of growth seems to have dropped off. I think that as land comes out of production, as we see all the time, there needs to be some push for productivity.

There have been some grants given to some of the universities to do research, but not all of it has been channeled into the agriculture side; some has gone into other areas that maybe don't seem to have a lot to do with the intent of the grant. I think that's what I was getting at, that some of your comments in the past have talked about this money being siphoned off through the universities but going to departments that really have nothing to do with agriculture.

**Mr. Jamie Reaume:** Some of my comments in the past have been directed at, quite frankly, what we look at within the industry—and this is an industry point of view. We work very hard and very diligently, but farmers, at the end of the day, tend to be price-takers; they're not price-setters. Even in your own—oops, I'm sorry. Am I out of time?

**The Vice-Chair (Mr. Phil McNeely):** Your time is up. If you could just finish that in the next 30 seconds.

**Mr. Jamie Reaume:** I can finish it in 30 seconds.

If you take a look at what has happened in the dairy industry, you can see exactly the same results. From my understanding, you had a dairy operation or you grew up on one, so you've seen the radical changes in technology and within the sector itself. That's what my comments were directed at: It's an overall basis, both federally and provincially and right across the board in all the provinces.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. For the third party, Mr. Marchese.

**Mr. Rosario Marchese:** Thank you, James. I think the official opposition invited you here so that we could have the benefit of the knowledge that you're passing on to us, because we are learning a lot. Some of the facts that you stated, I didn't know.

One of the questions I wanted to ask you was: How do we promote locally produced food? The problem you raise is that only 25% of the food that comes to the terminal comes from Ontario, which is a problem, obviously. Are you prevented from promoting Ontario produce? Does that have to change?

**Mr. Jamie Reaume:** No. In fact, we're probably the biggest advocates of promoting Ontario product from within the marsh. Quite frankly, we're seeing a shift within what people are looking for. The days are coming to an end where you're going to see access to cheap food. This country has always had that basically unspoken rule in play. Right now, it is about a pricing war. It is literally a pricing war. We live in a monopolized system where there are only basically a few retailers. Even with Walmarts and Targets and everything else, it's still basically a very contained, concentrated system.

In order to move your food, one of the things that we've started to look at is, how do we get it through into other areas; food service, for example? Many of you may know that the marsh is 50% exporting. The reason why is because Americans love the taste of what our product is. They simply love it. We ship down 50% of our stuff because they like the taste. They'll pay the price for it. Many in Ontario, and I've heard this time and again, and I could give you tons of emails from this—in fact, I got one last night from a disgruntled gentleman in Hamilton who believes that vegetable farmers in the Holland Marsh who have done very well because we have irrigation are going to jack the prices up on vegetables. That would be farthest from the truth. It's incredibly impossible for us to be able to jack up prices. In fact, prices right now are probably the lowest they've been in 40 years for the product that we do. It's because our competition is no longer our neighbours within Ontario, which is going back 30 years. Our competition is China; Peru; Chile; the Netherlands, which has huge over-production issues, and drought conditions otherwise. It still doesn't matter. Ontario is a dumping ground.

**Mr. Rosario Marchese:** So, James, when you said—because that's why I wrote it down—somebody should speak on behalf of farmers, I didn't know who it was that you were saying should. Was that the terminal?

**Mr. Jamie Reaume:** No. That's—

**Mr. Rosario Marchese:** That's not the terminal. You mean, in general.

**Mr. Jamie Reaume:** That's the role that they've put me in front of. Quite frankly, I'm not a guy who gets in front of the cameras. In my previous life, I was a journalist and quite happy to sit behind a pen. I've spent the last four-plus years being the guy who speaks for the farmers, and the message is consistent: This is a requirement.



**Mr. Rosario Marchese:** Let me ask you, James: Do you, as a terminal, connect to school boards, to schools, to municipalities, as a way of encouraging of buying local? Is that something the terminal is doing, or ought to do, as a way of persuading people that they should be buying from local farmers in general, or Ontario on the whole?

**Mr. Jamie Reaume:** The terminal—and you have to remember, this is a 60-year-old fundamental foundation within the province. It's the third largest in North America. We service a great number of people. There are 6,000 buyers that go into the terminal, weekly, monthly. There are tenants there that pay for that terminal. That's what they're there for: the Ontario farmers. And I say this with all gratitude, but thank heavens that we have the renters at the terminal, the tenants themselves, paying for this, because the farmers have access to do that.

Is there more that can be done? I believe it's a wish list. That's why I'm here. I see the opportunities that are being presented. Anybody not following what's taking place surely doesn't see this, but we do. We see the opportunities that are available to us.

Should they be doing more? I think that's the role that government has to play with dictating a policy, allowing for the policies to come through and allowing people to make those changes. Give us the direction.

**Mr. Rosario Marchese:** So, James, specifically, what do you think should be changed politically—

**Mr. Jamie Reaume:** Politically, policy-wise, in the act itself, there's lots of discussion on things that are taking place.

What could we do better? Distribution hubs have been proposed by a number of people, and ourselves included. We're on record for that. There are other ways of looking at this.

How do you function with it? You have to look at what the act allows for. You have to take a look at what the legislation does. We have looked at that.

Is there an opportunity to be able to make more efficiencies? Absolutely, I believe that there are.

Is there a way that we can promote more Ontario farming through it? Absolutely. The same vision allows us to be able to look at something and say, "Not today, but three years, five years down the road." That's where you need to move towards.

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**Mr. Rosario Marchese:** You raised a point that said—I wrote it down as such—"requirements ... to come in line with the 21st century."

**Mr. Jamie Reaume:** Yes.

**Mr. Rosario Marchese:** What do you mean specifically, again? Is that part of what you already talked about, or is that something different?

**Mr. Jamie Reaume:** No. There's a mythology—and I did this several years ago. I had asked 25 MPPs where their food comes from. Twenty-three out of the 25 were able to tell me the grocery store they shopped at. The mythology is that food comes from some magic food fairy who restocks the shelves every night, and every day

you walk in and there's something new on there. Forty years ago—and I can say this because I'm old—getting a tangerine or an orange in your stocking at Christmas time was a hell of a treat, and that's what people lived for. Now you can go there 365 days a year and find an orange. I quiz kids on where you can find kiwis from. They don't know where kiwis come from.

In answer to your question, I believe there's so much more out there, and we've lost the ability to connect. That's part of what the terminal also has a role with, because they are bringing in this food. I think at last count, they bring in over 230 different crops. We don't call them commodities, because they're not, but there are 230 different crops that people are having access to. That's the real reality that we deal with. There's no farming connection anymore, and that's a role that you have to look at.

Food does not magically appear; it is grown. It's hard work. Ask the guys in Chatham how they're dealing with the hail storm that just took place that wiped out about 1,000 acres. Ask Jim's people—no offence—out in eastern Ontario, who have been obliterated by a drought that is beyond comprehension for most.

**Mr. Rosario Marchese:** Thanks, James. Monique?

**Miss Monique Taylor:** How much time?

**The Vice-Chair (Mr. Phil McNeely):** You have two minutes.

**Mr. Jamie Reaume:** I was told that you guys finish early all the time.

**Mr. Rosario Marchese:** We tend to.

**Miss Monique Taylor:** You just bring this wealth of knowledge with you, which is so welcoming. I think that the Ontario Food Terminal definitely needs more farmers' aspects to be on that board. I think that's great that you're going to be, because here it says that approximately 400 different varieties of produce are sold at the terminal—150 locally grown. That's a big spread, right? Today in my salad from Queen's Park, I don't think my tomato was locally grown. You can tell the difference.

I believe also that people do want locally grown food. They do taste the difference. They do know the health effects. I believe that is something where you can possibly reassure me that you will be fighting harder for as a member of the terminal, for more locally grown produce. Yes, we do have produce that needs to come from other countries. I enjoy that produce also, but it's not produce that can be grown here.

**Mr. Jamie Reaume:** You want assurance? I've spent the last 15 years fighting for farmers, for equal footing, for equal rights, to be able to look at their neighbours not as their competition but as their compatriots, their partners. I've worked nationally, from BC right across to the east coast, and have done exactly the same thing. I have concerted partnerships with Quebec and Manitoba. We do have some of the issues out there. But when you have people who are interlinked and networked along the way, it is easier to have that discussion. I have never not been known as a fighter. I am a strong advocate. I am not



a lobbyist because, frankly, I don't lobby well. I'm not used to being in a suit either, but this is one of the things I have to bear with. I do fight all the time, regardless of the colour or stripes.

**Miss Monique Taylor:** Good. I think you'll be a warm welcome to the board, so thank you.

**Mr. Jamie Reaume:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. The government. Ms. Jaczek.

**Ms. Helena Jaczek:** Yes. It's good to see you here in a suit, James.

Reading from our researcher's notes, the Ontario Food Terminal was established to provide a convenient, efficient and low-cost receiving and shipping facility for wholesalers of fruit and produce. Can you give us some examples of those types of measures that you may have taken with the Holland Marsh Growers' Association to ensure that that association delivers food in a convenient, efficient and low-cost way?

**Mr. Jamie Reaume:** We have members of our association who are down at the terminal every day. I have talks with these people all the time. I talk with the fruit guys out in Niagara. I talk with the apple guys. I discuss matters with beef and dairy and egg and everything else, because it's not sectorally based. But the terminal is fruit and vegetable, so I also talk with the tenant-holders; I've also talked with Bruce Nicholas, who's the general manager. I deal with all these people on a regular basis, simply because they have seen what has been taking place over 30 years, 40 years. They have some insight that goes along with it, and they'll talk to me. They won't often talk to the people who are perceived to be game-changers.

**Ms. Helena Jaczek:** Have you received some concrete ideas that you wish to bring to this position?

**Mr. Jamie Reaume:** This addresses Mr. McDonnell's point about funding. The terminal received half a million dollars to take a look at developing efficiencies, a new business plan, looking at what some of the options are. My farmers never look at challenges as being something that they sway off. We look at it as opportunities to be able to be had. I think that's an exciting thing to look at for 2012 to 2015, to be able to look at some of this stuff and say, "Where can we make a difference? How can we develop better efficiencies? Where can we provide the service and the products that people are looking for?" That's something that hasn't been there before.

Now we're growing specifically for some of the food service companies. We're growing specifically for the retailers. We're growing products that they've requested. That's how we make the difference: We're not afraid to take up the challenge. Frankly, neither is anybody else in the farming community. They just have to be asked.

**Ms. Helena Jaczek:** You obviously have a lot of hands-on experience in terms of being an executive director in that management role. This, of course, is a board position. Could you just detail a little bit more of your experience in terms of a governance role?

**Mr. Jamie Reaume:** I sit on way too many boards for my own liking. I sit as an active member on a number of boards because if you're not at the table you miss the opportunity. In terms of governance, I am very straightforward and many people know me for this. I do not play games. There are no dalliances. We're very transparent with what we do in the organization simply because not only do I demand that but my farmers demand that. I believe in that. There can't be anything that is going to come back and bite me. Frankly, that's not how I function. I'm very much a straight shooter and I operate under the same principles. When we have board meetings—I have probably one of the best boards in the entire province, so much so that we have elections every year for our positions. That's unheard of in agriculture, for one. We don't simply appoint; we go through the whole process, and we do everything by the book.

It's the same with all the other boards that I sit on. After I'm done here I have another board meeting with the Greater Toronto Area Agricultural Action Committee. I sit as a board member there and as an executive going through because it's a requirement. If you're not at the table having input, you're just in the coffee shop whining about what's happening next.

**Ms. Helena Jaczek:** Thank you very much. That's all our questions.

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much, Mr. Reaume.

We will proceed now to consider the concurrence of James Reaume, nominated as member and chair of the Ontario Food Terminal Board. Would someone please move concurrence?

**Ms. Helena Jaczek:** I move concurrence in the intended appointment of James Reaume, nominated as member and chair, Ontario Food Terminal Board.

**The Vice-Chair (Mr. Phil McNeely):** Any discussion? All in favour? Carried.

Thank you, sir.

**Mr. Jamie Reaume:** Thank you. It was an honour to be here. Thank you so much.

#### DR. GEORGE SOUTHEY

Review of intended appointment, selected by official opposition party and third party: George Southey, intended appointee as member, eHealth Ontario.

**The Vice-Chair (Mr. Phil McNeely):** Our next intended appointment today is George Southey, nominated as member, eHealth Ontario. Please come forward, Mr. Southey, and take a seat. You may begin with a brief statement, if you wish. Any time used in the statement will be deducted from the government's time for questions. There will then be 10 minutes for each party to question you. The questions will start with the third party. You may start with your opening statement.

**Dr. George Southey:** Thank you, Mr. Vice-Chair. Thank you to the committee for considering my membership on the board of eHealth Ontario. I'm going to try to be brief because I imagine that there's going to be a



desire to have a dialogue and questions and I want you to have the most opportunity possible for that.

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In January, eHealth board chair Ray Hession approached me to see if I was willing to sit on his board. I have deep admiration for Ray and for the challenges that eHealth is facing, so I offered my candidacy. At the time, Ray was providing me with feedback on my research in the area of quality assurance in primary care. We share a deep interest in this subject, and I suspect that it is for this reason Ray feels that I might be able to make a positive contribution to the work of the board.

My relevant experience includes almost 30 years of comprehensive primary care, but more importantly, I've had the privilege to assess and analyze the function of hundreds of other practices all across the province, from northwestern Ontario and Red Lake and Matheson down to downtown Toronto and everything in between. This experience has come from college assessments; from medico-legal witness work, both plaintiff and defence; college investigations; prep assessments in numerous committees; task forces within the Ministry of Health. This experience has shaped my understanding of public expectations from the health system and the ways in which information satisfies those expectations and assures the achievement of quality, and this is the work of eHealth Ontario.

I was asked by the committee if I had any particular suggestions for increasing the use of electronic health records amongst health care providers. It was on the last page of the document that was sent to me. I do have suggestions. I'd like to qualify them and say that my interest and focus is on the sector of primary care, which I believe is the key to the future sustainability of our health system.

The question about getting health providers to use electronic health records addresses the challenge of how to motivate providers to use a tool, the electronic health record. The science of motivation provides guidance in addressing this challenge, and I rely upon the work of Daniel Pink in the field of motivation. His work suggests three factors which positively impact on motivation, and they are: a clear purpose, the opportunity to demonstrate mastery, and the opportunity to proceed in an autonomous manner towards that purpose. When these three factors are used to analyze options for EHR uptake, electronic health uptake, strategies start to emerge.

With regard to Pink's first factor, which is purpose, providers, the population and the health system stewards—and I consider you to be stewards—all share a common purpose, and that is the achievement of high-quality health care for Ontario residents.

Pink's second factor, which is mastery, can occur if providers have a measurement system which reflects achievement towards the common purpose. This strategy requires the tools to demonstrate mastery; and the tool is the electronic record, so long as it has the capability of reporting certain data.

The method to describe quality requires measurement of indicators spanning the full spectrum of primary care: the medical services, the management functions, and the respect for the patient-provider relationship.

To motivate providers to use electronic health records, we need to clarify the job that the tool needs to do, which is to assure high-quality primary care, and to measure achievement towards mastery of that shared purpose.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Dr. Southey. We'll start with the third party. Ms. Taylor.

**Miss Monique Taylor:** Thank you for being here with us today. We've definitely had a lot of problems within eHealth. It's been the highlight of many discussions. What is it that you feel that you could bring that is different to the board to be changing that conversation and to be bringing it to a brighter future?

**Dr. George Southey:** Obviously, I do feel that I have something to contribute in that direction. But first of all, let me add that we're not alone in this problem. Way back, as early as 2005, Andreas Kluth in *The Economist* magazine described this as being a problem rife throughout developed nations, in the failure to be able to use electronic records and the use of technology in what should be an obvious use, which is the information management in health care.

At a superficial level, it should be straightforward. Goodness gracious, you've got a health record; it should go electronic, and then that should be transported to where people need to know about your needs, if it's required. But there are subtleties about health records which make it extraordinarily difficult, and these subtleties include the fact that the information degrades very quickly. Your list of medications, your list of diagnoses, deteriorate very fast, and so simply the historic list of what your medications and diagnoses are is wrong in a relatively short period of time. It's an ongoing management function of primary care and other providers to ensure that there's reconciliation of that data. So there's a dance between the management function and the technology that it supports that's required to actually pull off effective electronic health records. I think I have a pretty good understanding of how that interaction needs to occur in order to make it work, and it needs a very clear focus on what you're attempting to achieve with the use of electronic health records.

**Miss Monique Taylor:** So you feel that you have ideas of how that will happen?

**Dr. George Southey:** Yes. In fact, probably everyone around this table is an expert on being a patient and has an understanding of the sorts of circumstances in which electronic records make a difference. If you were incapacitated somehow because of illness and injury and were brought into an emergency department for care of that presenting complaint, what's important is an understanding of your health status and the agenda associated with that. That can provide a background for the physician to be able to care for you. That understanding is a management understanding which, in most circum-



stances, lies in the primary care record; it doesn't lie anywhere else.

The other circumstances under which you're likely to require electronic health records is on the ongoing care of an existing problem. Again, that is a management function assumed by primary care. So it's the mobilization of the primary care record in its proper form which actually holds the key to effective communication within the health sector.

**Miss Monique Taylor:** I just have another question. We've definitely been hearing a lot about CEO bonuses and all of that happening in the paper lately, and we have a shortage of health care dollars. It being that the board made the decision to allow the bonus, how do you feel about that?

**Dr. George Southey:** Well, I haven't had an awful lot of opportunity to analyze the details of the circumstance. I think there was about a 15-second sound bite on CBC—

**Miss Monique Taylor:** True enough.

**Dr. George Southey:** —and a single column in the *Globe and Mail*. I don't know what the background is, but I think it certainly illustrates the natural conflicting positions that would have to exist: one on the board side and one on the political side. So on the board side, if there was a pre-existing contract which Greg Reed was hired under, then there may be constraints that the board had to adhere to. I don't know. Under those circumstances, it may be that the board didn't have much of a choice. Again, I don't know the information.

On the other hand, Greg and Ray Hession clearly had a sensitivity about the political issue, which is: You've got to lead by demonstrating restraint. So Greg chose to forgo the bonus.

**Miss Monique Taylor:** Absolutely, and I commend him for that. I was just wondering, on your position, whether you supported people being given bonuses other than their wage packages.

**Dr. George Southey:** I think that it entirely depends on the individual circumstances that they were brought into the organization for. I believe it makes sense to reward people explicitly at the beginning of their employment for the achievement of outcomes. If that was what he was hired by and those were the terms of his contract, then I think there's probably an obligation to adhere to the contract. But again, it's the details that tell the tale.

**Miss Monique Taylor:** Right. Thank you. Rosie?

**The Vice-Chair (Mr. Phil McNeely):** Mr. Marchese?

**Mr. Rosario Marchese:** Welcome, George. I want to read something to you, prepared by research, because this will give you a good sense of some of the concerns:

"November 2005"—and by the way, November 2005 is just where they started, but the problems were there much before 2005—"a *Toronto Star* investigation of SSHA observes that the agency is reliant on consultants and has little to show for its expenditures.

"November 2006—Deloitte Consulting issues an operational review ... concluding that SSHA has an

'inadequate' financial management regime and an 'unfocused array of clients, products and services.'"

In 2007: "The Office of the"—

*Interjection.*

**Mr. Rosario Marchese:** Oh, you've got it, do you?

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**Dr. George Southey:** Oh, yes.

**Mr. Rosario Marchese:** Oh. I didn't know that you got that. Do they get that?

*Interjection.*

**Dr. George Southey:** I hope so.

**Mr. Rosario Marchese:** Normally, they don't.

All right. For the benefit of those who don't have it—2007: "The Office of the Auditor General reviews SSHA's efforts to address the recommendations in the Deloitte report and identifies a lack of progress in developing EHRs."

In 2009: "Following eHealth Ontario's creation in ... 2008, the new agency receives significant criticism in the Legislature and the media regarding executive salaries and its tendering practices and use of consultants."

In 2009: "The Auditor General releases the Special Report on Ontario's Electronic Health Records Initiative, a highly critical document drawing attention to a lack of oversight and strategic direction, questionable procurement practices, and excessive reliance on consultants at eHealth Ontario and its predecessor.... The report concludes that Ontarians had not received value for money for the \$1 billion invested to that time, as the province was near the 'back of the pack' in its development of EHR relative to other provinces."

I think things are getting better—I think. Based on this kind of history—you're here, presumably, because you want to be part of the fun, be part of the problem, be part of the solution?

**Dr. George Southey:** I'm not sure I'd describe those bullet points as "fun."

**Mr. Rosario Marchese:** Why would you be excited to be part of this board?

**Dr. George Southey:** Clearly, if the retrospect-o-scope were the way we were viewing this, you'd have to think I was crazy or didn't know what I was getting into—

**Mr. Rosario Marchese:** That's what I was thinking, yes.

**Dr. George Southey:** —to venture into an organization that has had such a difficult past. At a distance, I knew Sarah Kramer and Alan Hudson. It was a horrible situation for everyone involved in the organization to be held accountable for the failure to actually move forward with the agenda that they were entrusted with. I have no desire to participate in anything that resembles that circumstance.

Ray Hession is a different person altogether. I think he's an entirely capable chair, and I have confidence that he's not going to let me put my neck on the chopping block for the *Globe and Mail* or the *Star* or anyone else, and that we can truly make progress in what needs to be done to make a difference to our health system.



**Mr. Rosario Marchese:** Thanks, George. Good luck.

**The Vice-Chair (Mr. Phil McNeely):** And that's the time. We go to the government now. Ms. Jaczek.

**Ms. Helena Jaczek:** Dr. Southey—how do you pronounce your name, actually?

**Dr. George Southey:** “Sow-thee,” as in “mouthy.”

**Ms. Helena Jaczek:** Southey—easy to remember.

Obviously, as my colleague has alluded to, a difficult last several years. The understanding we have is that the agency is now focusing on linking existing databases rather than designing an entire system from scratch.

My family is very happy to be part of a family health team, and I must say that the electronic health records there are superb. So, in terms of your starting to focus in on family physicians, obviously, I understand full well why you want to do that.

Over the weekend, we had a very interesting experience because we had to attend our local hospital, where the use of electronic medical records was in what I can only describe as its infancy and not apparent, with the issues that so many patients always complain about: repeating your history over and over and over. I'm wondering what kind of role you, as a potential board member here and as a family physician—how are you going to try and persuade hospitals to get on board a little bit better?

**Dr. George Southey:** Your scenario exactly mirrors the circumstance that I was personally faced with about two or three years ago: my father, lying incapacitated down the street in Mount Sinai emergency department, late at night, with an acute episode of something. The information management was not very good. He was expected to provide his own history. He was not capable of doing that, because of the confusion and the fear and the late hour.

An identical problem had presented earlier within the University of Toronto hospitals, at Sunnybrook. The answer to his diagnosis lay elsewhere, in two different records. One was Sunnybrook hospital; the second was his family doctor's office, that followed the thread and pulled together the explanation of what was going on. What was missing in Sunnybrook was the summary of that man's health status at the point where he was presenting into the emergency department. It was the information coming into the system, not the information management in the emergency department itself.

Emergency is probably the most chaotic environment in which to try and implement information systems. I'm not sure whether anyone has experience in the emergency department, but you have multiple players, usually in a compressed time zone, often with a fair bit of tension involved, which is quite unusual. Most health circumstances have the time to add to a record in a proper, cohesive manner.

So the answer to the query that you gave lies with primary care. Primary care, in its description of services—which the 7,600 family doctors have signed on to patient enrolment models—explicitly says, “You are in charge of making sure that you have a proper medical

record and act as advocate for the patients.” It's part of the basket of services we sign on to in the contract. What's missing is the ability to hold doctors accountable for a quality level of achieving that service. If those services were provided—and part of the use of the information management is the transfer of that information—the circumstances you would have been faced with would have been easily resolved.

**Ms. Helena Jaczek:** In terms of your role, obviously, the board is a governance body. I know how busy it is to be a physician, as a physician myself. Have you had experience sitting on similar boards or panels where you've played a governance role?

**Dr. George Southey:** In a limited degree, yes. I have been on the board of the family health team that I founded. I guess we became a family health team in 2005. We were Ontario's first family health network in 2002, but there wasn't board governance at that point.

Also, for the past two years, I've been a member of the Association of Family Health Teams of Ontario. They are more of a governance board than an operational board, so I have experience in that regard. Those are the two experiences; certainly, nothing that has a budget of \$256 million a year.

**Ms. Helena Jaczek:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** No other questions? We'll go to the official opposition. Mr. McDonell.

**Mr. Jim McDonell:** Thank you for coming. Do you foresee any—what you might perceive as the problem with eHealth or where they're going with it?

**Dr. George Southey:** Do I perceive issues with the current direction of eHealth?

**Mr. Jim McDonell:** Yes.

**Dr. George Southey:** Generally speaking, I think the direction is correct. I think it needs a very precise focus on what it needs to accomplish in order to actually get through the huge potential amount of work that could be done.

If you look at what could be done, which is all information going to all providers under any circumstances, you have an immense job which would be very difficult to fulfill. But if you realize that most of the work needs to be done in order to make a difference to patients at points of care where they need to have health information transferred, it's actually fairly precise. If you focus on those circumstances, I think you can get to done reasonably quickly.

**Mr. Jim McDonell:** So essentially, it looks like maybe the agency bit off more than it could chew. Really, I think you alluded to needing to develop a system that actually talks to all the other electronic health databases that are out there and some of the groups. I mean, you're talking about something that needs to talk back to the different agencies or—

**Dr. George Southey:** I don't think the problem is one of technology. I don't think our problem in our health care system is one of technology. I think it's a purpose of having a very clear understanding of what you want the



system to achieve and focusing on that. If you don't have that precision in your focus, then everything works. Everything is worthwhile pursuing. You'll exhaust your resources, and you won't have the capacity to serve 13 million people at a level that they expect. And your costs are going to go through the roof. But if you focus on the things that people really want, which is a choice of a practice that will be responsive to their needs, where the quality is assured against their expectations and where the costs are addressed in a manner which is safe for patients, then I think you'll have a solution.

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**Mr. Jim McDonell:** So if I can summarize, essentially all health organizations have to have electronic records. What you need is some method of having them talk together, really.

**Dr. George Southey:** You're describing a technology solution to a management problem. Imagine you're my patient and I'm your family doctor, and I have committed to communicate your record when and where you need it; that's a management solution. There are technologies that achieve that, and it would certainly keep me in bed if the computer at Mount Sinai were able to pull up your record, but I could equally provide that service by committing to it and being prepared to get out of bed and fax a copy of your medical record through to the emergency department. The technology falls into place once you have the management commitment in place, but what really needs to occur is a very clear understanding that there are functions that need to be achieved, management functions. Once you have commitment to those management functions, then the technology will fall into place. To start from the technology end is sort of having the tail wag the dog. The dog is the management functions that need to occur in order for health care to occur safely and effectively, and technology serves the purpose of management—not the other way around.

**Mr. Jim McDonell:** I guess the point—we've been at this for the better part of 10 years now. Are we moving towards conclusion? Where do we sit here? I guess that's the frustrating part. We've sunk, records now show, \$2 billion into something, and I don't think we have a solution that people would consider adequate even after those resources were put into it.

**Dr. George Southey:** Absolutely. If you go out on to the street and ask people what they consider to be the function of eHealth Ontario, you'll be met with a blank stare, if anything. You might have the occasional person refer back to episodes five years ago. That illustrates that, from the perspective of expectations of the man on the street, the person on the street, eHealth is not meeting that need. That's partially because they've been distracted by the scandals that they've had to deal with and partially because they're only coming to the realization that there needs to be very precise action in order to meet public expectations.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Pettapiece.

**Mr. Randy Pettapiece:** Just one comment: I do like where you're coming from on the technology versus

management thing because I think that's been the issue all along. I spoke of two issues I had within the last month in emergency wards and was treated very well by the staff there. They're very professional, and they got the job done, and I'm very happy.

But it seems to be in the health system, when you get up to the management deal and all this goofing around that's gone on, people have lost confidence in things. I would hope that if you get this position, we can get that solved, and people can get back to the confidence in the health care system because we can get this eHealth thing put to bed. I think that's what needs to be done.

**Dr. George Southey:** Yes, it's so true. There's a culture in health care about certain issues of information. We always ask people, "Do you have any allergies?" If you approach that question from a viewpoint of just verifying information that you already have, that builds confidence that your information management is good. But exactly the same question asked from a perspective of searching without the knowledge illustrates a lack of faith in information technology. You're absolutely right: You need faith that the information flows accurately, that somebody's overseeing it and making sure that your health record tells your story in a way that if you need services, it's ready to serve that purpose.

**The Vice-Chair (Mr. Phil McNeely):** That concludes the questions. Thank you very much, Dr. Southey.

We will now consider the concurrence for Dr. George Southey, nominated as member, eHealth Ontario. Would someone please move concurrence? Ms. Jacek.

**Ms. Helena Jacek:** I move concurrence in the intended appointment of George Southey, nominated as member, eHealth Ontario.

**The Vice-Chair (Mr. Phil McNeely):** Any discussion? All in favour? The motion is carried.

Thank you again, Dr. Southey. That was good information that I certainly appreciated hearing today.

**Dr. George Southey:** Thank you.

#### MS. MAUREEN CARTER-WHITNEY

Review of intended appointment, selected by official opposition party: Maureen Carter-Whitney, intended appointee as member, Ontario Municipal Board.

**The Vice-Chair (Mr. Phil McNeely):** Our next intended appointee today is Maureen Carter-Whitney, nominated as member, Ontario Municipal Board.

Please come forward and take a seat at the table. You may begin with a brief statement, if you wish. Any time used for your statement will be deducted from the government's time for questions. Each party will then have 10 minutes. Questioning will start with the government this time. You may start with your statement, Ms. Carter-Whitney.

**Ms. Maureen Carter-Whitney:** Thank you very much, Mr. Chair, and I would like to make an opening statement.

Thank you for the opportunity to appear before the committee as an intended appointee as a member of the



Ontario Municipal Board. I appreciate the opportunity to meet with you and discuss my qualifications and experience. I'm confident that with my skills, knowledge and expertise, I can make a real contribution to the work of the board.

I would like to briefly elaborate on my background. I'm a lawyer by training and I was called to the bar in Ontario in 1995 after receiving a bachelor of laws degree from the University of British Columbia. For most of my career, I have worked in the field of environmental law. Over the course of my career, I have developed strong skills in legal analysis and research, including statutory interpretation and policy analysis, and in legal writing.

I worked as a legal analyst for the Environmental Commissioner of Ontario's office for about nine years. I also worked as research director with the Canadian Institute for Environmental Law and Policy, known as CIELAP, for six years, until June 2011, when I resigned from CIELAP due to my appointment as a member of the Environmental Review Tribunal.

I would like to highlight that the biographical information that was provided to the committee I believe was prepared just prior to my appointment to the Environmental Review Tribunal, and so it does not reflect that my time with CIELAP ended in June 2011.

In 2001—going back a decade or so—I received a master of laws degree from Osgoode Hall Law School. My master's studies concentrated on administrative law, and my major research paper for that program addressed the issue of land use planning on the Oak Ridges moraine.

Much of my work with both the Environmental Commissioner of Ontario and CIELAP has involved the analysis of legislation, regulations and policy relating to land use planning in Ontario. I've authored and co-authored reports and studies that address a variety of subjects, among them land-use-related subjects such as brownfield redevelopment, aggregate resources and greenbelts.

I teach a course annually in the winter semester in environmental and development law at Ryerson University, and I am also the author of LexisNexis Canada's loose-leaf publication *Environmental Regulation in Canada*, which does include a land use chapter. That is a loose-leaf publication; that means I continually update it several times a year, which helps me keep on top of developments in the law.

In May 2011, I was appointed to the Environmental Review Tribunal as a part-time member. Since being appointed to the ERT, I've conducted pre-hearings and hearings in a range of matters that include land use disputes under the Niagara Escarpment Planning and Development Act and other statutes.

I've also completed an intensive certificate training program in adjudication offered jointly by Osgoode Hall Law School and the Society of Ontario Adjudicators and Regulators.

Although I was familiar with the OMB prior to my appointment to the ERT, I've learned more about

practices and procedures generally at the OMB over the last year, and that's because both of these tribunals are part of the Environment and Land Tribunals Ontario, or ELTO, cluster of tribunals, and all members gather regularly for cross-tribunal training sessions and discussion.

The training I've received in the past year has focused on a broad range of adjudicative skills and principles, including independence and impartiality, procedural fairness, natural justice, cultural diversity, case management, conducting preliminary hearings and hearings, procedural rulings, and decision-writing. I've been working hard to nurture these skills in my adjudicative work. I now have over a year's experience as an adjudicator, and as a result, I've begun to develop the unique skill set required, through my training and work at the ERT.

Those are my remarks, and I am prepared to answer your questions at this time.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. The questions will go to Ms. Jacek, of the government.

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**Ms. Helena Jacek:** Obviously, as a member of the Environmental Review Tribunal, you've had quite a bit of experience in that forum. In terms of the Ontario Municipal Board and being a member there, how do you see your experience on the Environmental Review Tribunal sort of feeding into becoming a member of the OMB?

**Ms. Maureen Carter-Whitney:** Well, certainly, I think adjudicative skills are transferrable from tribunal to tribunal in that, while the subject matter will vary from board to board or tribunal to tribunal, there are common principles of adjudication that include the importance of independence and impartiality of conducting the procedure of a hearing properly, hearing all of the evidence, following the rules of natural justice in the statutory procedure and powers act. The hearings will be somewhat different; they will vary somewhat from tribunal to tribunal, but will certainly involve the same skills in terms of conducting a hearing and then analyzing the evidence that is placed before me and writing out a decision.

**Ms. Helena Jacek:** I represent four municipalities in the great region of York and worked for many years at York region. Through the years, I have certainly heard from both constituents and from councillors that there is absolutely no need for an Ontario Municipal Board at all. I would just like to hear your views, as a lawyer and someone experienced in the adjudicative process, how you view the role of the OMB and its utility.

**Ms. Maureen Carter-Whitney:** Well, the role of the OMB is one that has been designed by the government. It's a legislative creature. The government has that role of structuring administrative justice, of setting out the policies that should be followed in making these decisions. As an adjudicator, I don't see my role as one of suggesting policy to the government or pronouncing upon government policy. But until or unless there are



changes to the legislation that governs the OMB, my role, I believe, would be to follow the laws and policies in place and do my best, in each individual dispute, to hear the evidence before me in a fair and just manner.

**Ms. Helena Jaczek:** Very well said.

Have you had other experience? We've heard a lot, obviously, of legal training and experience with the Environmental Review Tribunal, and you've outlined a little bit of your background. Can you just give us any other pieces from your experience that you feel you can bring to this particular position?

**Ms. Maureen Carter-Whitney:** Well, my primary adjudicative experience has been in the last year or so with the Environmental Review Tribunal. But I do think an interesting past experience, while somewhat different, that has certainly helped to prepare me for this role was the time that I spent with the Environmental Commissioner's Office—another unique office, I think, in that it's an officer of the Legislature and independent of government. I think that has given me an understanding of independence and what it means to be in some ways part—when I say I'm an adjudicator for the Environmental Review Tribunal, people say, "Oh, that's the government." It's not exactly the government. It has a unique place in the government but is independent of the government. The government appears before us in virtually all—I believe all—of the disputes that we hear at the ERT. So it's important to be aware of our role and to stay within the constraints of that role.

**Ms. Helena Jaczek:** Thank you very much. We have no further questions.

**The Vice-Chair (Mr. Phil McNeely):** We'll go to the official opposition and Mr. McDonell.

**Mr. Jim McDonell:** Thank you for appearing here today. The OMB, being from a smaller municipality, was always seen to be a higher authority. What merit do you give to the local official plans which are put in place, most times, before developments come on board? Of course, the challenge sometimes is that there's always another argument for changes being made. I think there are, for the most part, good documents put in place that are meant to somewhat control some of the growth and how it should be done from a planning basis. Any comments on the role and the municipalities' wishes versus developers coming in or the role of the OMB in those cases and where they should—you know, some of the guidelines that they might follow?

**Ms. Maureen Carter-Whitney:** Local official plans would definitely be a key piece of the policy framework that would be considered in a specific dispute. Certainly, there are many other aspects to that policy regime: the Planning Act, the provincial policy statement. Often, there may be other policies that would be considered, but the official plans are created under the regime of the Planning Act and are a fundamental part of the framework to be considered in making a decision.

**Mr. Jim McDonell:** Okay. In my role, I guess I've seen a number of challenges on both sides. Sometimes municipalities are bringing things in and the OMB

sometimes seems to be—a considerable delay put into the process. Sometimes it is used for that delay as well, as far as unfairly—you know, I look for some small issues. Especially in rural areas, some of the changes or some of the parties are—the delays can sometimes result in cancellation of projects because of the costs involved.

Do you see some need or some possibility of shortening down that time frame and getting hearings done more quickly and decisions made more prudently?

**Ms. Maureen Carter-Whitney:** I certainly see the importance of avoiding delay where possible. I know it's difficult with more complex cases. Having not yet been appointed to the OMB, I'm not in a good position. I'm not clear enough yet on what procedures we'll be following to ensure that things move as quickly as possible. That would probably be a question better directed to either the executive chair of ELTO or the associate chair of the OMB. But I do understand, particularly from my work at the ERT, that we work as hard as we can to move things through as quickly as possible. My understanding would be that that would be a similar approach at the OMB.

**Mr. Jim McDonell:** Okay. I guess just a comment: I've seen many times those frivolous objections put in with the idea of trying to delay things. Sometimes there needs to be a process to eliminate those more quickly when there is no backing behind or no issues that really—once the OMB gets involved, they're handled very quickly. But getting involved sometimes takes eight months, almost a year sometimes, in getting heard, and that's sometimes an issue.

**Ms. Maureen Carter-Whitney:** I know that there are—not in all cases but in many cases—pre-hearings that are held. Sometimes that is the juncture at which those sorts of things can be dealt with. I think, in terms of the systemic issues, that would be more a role of the government to make changes at the legislative and policy levels to address some of those problems.

**Mr. Jim McDonell:** Okay. That's it. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. We'll go to the third party and Mr. Marchese.

**Mr. Rosario Marchese:** I just wanted to share with you some of the complaints that we get around the OMB. In my riding, feelings are very strong against the OMB. Part of it is that they perceive that the rules are stacked against residents in general. If they have to go to the OMB, of course, it's very costly. They don't have money, whereas developers are well equipped and prepared to defend themselves, which they do. We hear complaints that developers don't waste any time going to the OMB where there is a hint that the city of Toronto or the local councillor might object to their proposal—i.e., a big condominium of 47, 50 or 55 stories or whatever. Where the developer feels they are going to get the objections, they are ready, within 90 days, to prepare themselves to go to the OMB and literally simply dismiss city councillors if they have to—not even consider them—and prepare themselves for the fight at the OMB. They generally win at the OMB. This is the complaint we



get from residents and a lot of city councillors: that it's pro-development and pro-developer in general, that it's a litigious process and that it's stacked in favour of development and developers over the interests of citizens and, in some cases, cities. Do you have a view on that?

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**Ms. Maureen Carter-Whitney:** Again, I believe in my role as an adjudicator, the role that I'm an intended appointee for, it would be inappropriate for me to comment on that. I believe those are all issues that would be addressed by the government in its role. Unfortunately, I can't comment specifically.

**Mr. Rosario Marchese:** I thought I would pass that on.

The other one I wanted to pass on is that the city of Toronto spent, last year alone, 13,000 hours of planners' time defending themselves against developers, usually, at the Ontario Municipal Board. Instead of that time being spent talking about how cities get planned in their area, in their communities, they're spending thousands of hours of staff time defending themselves at the OMB—just an inordinate amount of time. The city of Toronto has a good planning department, although it has lost a lot of workers over the years, and it's probably demoralized for a variety of different reasons.

This year alone, the city of Toronto has passed a resolution saying they want to be free of the Ontario Municipal Board. Mississauga city council has passed the same motion. I plan to introduce a bill by the end of August or in early September, when we come back, that will do the same. The bill will be simple, and it will be to free Toronto city council from the Ontario Municipal Board. That is what I will be doing.

I know that your answer is that this is too political, but I thought I would pass it on for your knowledge, and then you can pass it on to the others that it's coming.

**Ms. Maureen Carter-Whitney:** Yes, you correctly predicted that my response is that—

**Mr. Rosario Marchese:** Thanks very much, Maureen, and good luck.

**Ms. Maureen Carter-Whitney:** Thank you.

**Miss Monique Taylor:** I just have a question.

**The Vice-Chair (Mr. Phil McNeely):** Miss Taylor.

**Miss Monique Taylor:** Thank you.

*Interjections.*

**The Vice-Chair (Mr. Phil McNeely):** And we have some conversations going on at the table, so if we could just quieten that down. Some people are trying to listen.

**Miss Monique Taylor:** My concern was when you were answering Mr. Marchese, saying that you wouldn't be able to form an opinion, I believe it was, and I'm not trying to put words in your mouth. It was about residents and when residents and cities feel that they don't have a chance against the big developer, and you felt that that would be the vice-chair and the chair who dealt with that. If you're a member of that board, would you not expect to have a voice and a say on how issues like that would be dealt with?

**Ms. Maureen Carter-Whitney:** I believe my response on that question—that was in response to a question about concerns about delay in the process at the OMB and the time involved in a decision being issued from the time that an appeal is launched.

My response to that was that, having not yet been appointed to the OMB, I don't have enough information to even express opinions on how we would improve processes to reduce delays in that process. So yes, I think that was my response that referred to the executive chair and the associate chair, rather than my answer to Mr. Marchese.

**Miss Monique Taylor:** Okay. My reasoning for that is, previous to being elected, I was an assistant to a city councillor, and I definitely heard many issues from residents on a regular basis about their frustrations of being able to deal with the OMB and how sometimes the delay in process cost them more money than what should have been and sometimes cancelled projects that folks were looking forward to. Hopefully, you won't lose sight that it's municipalities that really do need the backing and that it's sometimes the residents who need the OMB to be on their side.

**Ms. Maureen Carter-Whitney:** Certainly in any specific case, I will hear all of the evidence with an open mind in terms of the parties who appear before me.

**Miss Monique Taylor:** All right. Thanks. Good luck.

**Ms. Maureen Carter-Whitney:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, and that concludes the questioning. Thank you, Ms. Carter-Whitney, for being here.

We will now consider the concurrence for Maureen Carter-Whitney, nominated as member, Ontario Municipal Board. Would someone please move the concurrence? Ms. Jacek.

**Ms. Helena Jacek:** I move concurrence in the intended appointment of Maureen Carter-Whitney, nominated as member, Ontario Municipal Board.

**The Vice-Chair (Mr. Phil McNeely):** Any discussion? No requests for discussion? All in favour? Carried.

MR. TOM CLOSSON

Review of intended appointment, selected by official opposition party: Tom Closson, intended appointee as member, Ontario Health Quality Council.

**The Vice-Chair (Mr. Phil McNeely):** Our next intended appointee today is Tom Closson, nominated as member, Ontario Health Quality Council.

Please come forward and take a seat at the table. You may begin with a brief statement if you wish. Any time used for your statement will be deducted from the government's time for questioning. Each party will then have 10 minutes to ask you questions. The questioning will start with the official opposition this time. We'll open the floor and ask you to start your presentation, Mr. Closson.



**Mr. Tom Closson:** Good afternoon, everyone, and thank you for giving me the opportunity to come here and answer your questions.

I have shown the initiative here to want to be a member of the health quality council in Ontario. It's a very new agency, and it's an agency that has tremendous potential to make a difference in terms of the quality of care that people in Ontario receive. There are a few other provinces that have had quality councils for a number of years, and I think the experience has been positive in those provinces, and we, of course, hope that the same will be true here in Ontario.

My own background in terms of, I think, making me suitable for this—as you may be able to tell from reading the short bio, I no longer am working full-time. I've had a wealth of experience over quite a number of years in health care, and now I have the flexibility, I think, of time to be able to offer my assistance in trying to make this particular agency an agency that can fulfill its full potential.

I have a health care background, starting from even when I was in university. I'm an industrial engineer, which is really process engineering, and I did my thesis at the Hospital for Sick Children, so I've been involved in health care since I was in university.

I have an MBA, and I've also taken training in the ICD/Rotman program in governance for not-for-profit organizations.

You may also notice that I've been on quite a few boards over the years. In fact, I was just counting it up, and I've been on various boards over a 25-year period. Probably the ones most relevant to this particular appointment are the Institute for Clinical Evaluative Sciences, ICES, which started at Sunnybrook when I was at Sunnybrook—I was on their first board—and the Canadian Institute for Health Information, which is the major provider of standardized information across all the provinces in Canada. I was on their board for about 10 years. In fact, I was on their initial board as well.

I was on the Change Foundation board, which is an organization that looks particularly at how we integrate care between the community and hospitals better than we do today.

I'm currently on the Canadian Health Services Research Foundation, which is a pan-Canadian organization that looks at the application of research to make the health care systems across the country perform better, and tries to share that information so that we can get a more consistent approach to health care and the way it's delivered throughout the country.

I've had the opportunity to be the CEO of a number of organizations: Sunnybrook/University Health Network and the Ontario Hospital Association, which are both in Ontario, and also the Capital Health Region in British Columbia. In British Columbia, health care is organized entirely differently, where pretty well everybody except the physicians who deliver health care services works for the health region. There, I was responsible as CEO for hospitals, obviously, but in addition, home care, com-

munity mental health, long-term care, public health, and even the licensing of daycare. So it was quite a wide range of responsibilities.

I think what I bring to this is a deep understanding of how the health care system works, not just in Ontario but in many other provinces in Canada. I've had the opportunity to look at a few other countries as well to understand their health systems. Also, I've put a lot of emphasis on understanding what is good health policy and what health policy works in what sorts of circumstances.

**1510**

I'd say probably that at this stage of my career, the thing that interests me the most in terms of making change—and this is one of the three key responsibilities of the health council—is trying to make it so that we use evidence that already exists about what works in a more consistent way across the health care system. It's amazing how much evidence we have on certain things that could be done a certain way to get better results. Yet, if you look across the health care system, it's not done in that way in many places—in fact, in most cases.

This is the challenge. We've got a lot of great ideas in health care. The challenge is, how in the world do you ever get them implemented? It's about trying to work within the system and work with all the parties to try to focus on having a health council that has organized its work in such a way that it can have maximum impact on making the system a high-performing system.

I'll stop there.

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much. We'll go to the official opposition to start the questioning. Mr. McDonell.

**Mr. Jim McDonell:** Thank you for coming out today. You've had quite a career, with a lot of experience in the health care sector—certainly first front-line and throughout the organization.

Recently, Don Drummond reported that almost a third of the health care budget has no impact on health care. It's essentially wasted. Do you agree with that assessment and see some way of actually looking for some of those efficiencies and getting those dollars to work?

**Mr. Tom Closson:** You always hear these numbers thrown around. Even though I have a lot of respect for Don Drummond, I'd like to see the calculations they used to come up with that 30%.

Having said that, we have a deficit at the moment of close to 13% in this province. If health is to deal with its share of that, we need to, at a minimum, provide a health care system that's 13% more efficient than the one we currently have.

I do believe there's real opportunity to make the health care system more efficient. I was here listening to the fellow who was wanting to be on the eHealth council—the eHealth agency, I mean. One of the things he emphasized—and I couldn't agree with him more—is that if you really want a health care system to work well, you have to have a primary care system that works well. Hospitals are expensive, but if you can keep people out



of hospitals, then they become a lot less expensive because you have fewer people going into them. I would say it's true across all of Canada that primary care is not very well organized.

If you really want to get the biggest bang for the buck in terms of having a system that costs less and works more effectively for patients, you've got to look at how you organize primary care and also how you make sure that evidence is followed in the way that primary care is delivered.

**Mr. Jim McDonell:** At the HealthAchieve conference in 2011, you mentioned that politicians and unions are at war with the leadership of the system. Could you expand on that remark and tell the committee how the government should utilize the knowledge of health care leaders?

**Mr. Tom Closson:** I don't remember actually saying those words, but I will answer what you said at the end, which is how we can all work together. I think the providers in the system and government need to work together to make sure we have good health policy, as I said before. It's one thing to identify what the good health policy is, but the people who have to implement it are the front-line doctors and nurses and the front-line managers and leaders throughout various organizations. It is really important that the parties are working in sync.

Regarding unions, as you might know, in my role as CEO of the Ontario Hospital Association, I was quite involved in collective bargaining. I'm very proud to say we were able to reach agreements with OPSEU and ONA in the time that I was there, and I was very directly involved in that.

I think that unions play a very important role in the delivery of health care. It's another way that staff can get their interests known to everyone in the system. So again, I think they're an important part of trying to get the various parties working collaboratively to implement the changes that evidence would suggest are the ones we need to implement.

**Mr. Jim McDonell:** Do you have a question?

**Mr. Randy Pettapiece:** Yes, I have one question.

I believe I heard that you have experience working in British Columbia with the health care system.

**Mr. Tom Closson:** Yes.

**Mr. Randy Pettapiece:** Are they doing some things out there better than we're doing that you might be able to help implement into our system? I'm talking—like the eHealth system. I believe they have theirs up and running.

**Mr. Tom Closson:** You may have noticed I was on the board of Canada Health Infoway. I just finished my six years there so I have a pretty good understanding of eHealth across the country because Infoway is the strategic partner investing. They've committed over \$2 billion to eHealth throughout the various provinces.

British Columbia is a bit ahead of Ontario, and in some areas more so than others.

I would say Ontario is actually now probably ahead of all the provinces in terms of electronic medical records in

doctors' offices. OntarioMD has done a fantastic job over the last number of years. Alberta used to be ahead but I'd say Ontario has caught up and is now surpassing them.

Where British Columbia on the e-health file has done extremely well is they've had an all-drugs, all-people system for now—well, they had it when I was there, so they've had it for over 15 years. If I would go into any drugstore in British Columbia, they would know what drugs I was on from anywhere else in the system. The pharmacist would know and the physicians would be able to access that information as well.

In addition, the private labs in British Columbia have created a lab system for doctors in their offices which allows them to get access to lab results, but it was the private labs that did it there rather than the government.

So different provinces have moved ahead on different aspects of e-health more quickly than others. The two provinces that are probably the most challenged are probably challenged because of their size: that's Ontario and Quebec. Size creates a lot of complexity in e-health.

In regard to the other aspects of health care delivery in British Columbia, Ontario and British Columbia have the lowest-cost health care systems in Canada. It's interesting, you might think actually—did I say Alberta? I didn't mean Alberta. That was a real Freudian slip. British Columbia and Ontario have the lowest-cost health care. Alberta has basically the highest-cost health care system in Canada, but British Columbia and Ontario are pretty well neck and neck in terms of the cost of their systems.

One of the things that brings the cost down in British Columbia is their drug system. They have a very different approach to their drug system. As you may know, it's not focused on seniors, it's focused on people's ability to pay. So there might be something we could learn from that. But, you know, those are health policy issues.

Having said that, if people because of an inability to pay for a medication don't take it, then that's going to have an impact on their outcomes. Therefore, that's obviously something the quality council needs to be reporting on and better understanding what evidence would suggest—as I say, in British Columbia and elsewhere—as to what you could do with a drug system to make it so that people get better access to drugs.

So I think there are things to learn, but there's no province in Canada that has everything working better than all the other provinces.

**The Vice-Chair (Mr. Phil McNeely):** You have one minute left.

**Mr. Randy Pettapiece:** Yes, I would suspect that too, and I would agree with that. I guess what I'm getting at is if somebody else has invented a better wheel than we've got, there's no harm in copying it or using that instead of trying to invent our own stuff all the time and maybe saving a few dollars doing that. I'm sure that no one has cornered the market on this type of thing but I would hope that we could look ahead and say, "If British Columbia's got a better system on this part of it, maybe



we borrow that to bring it over here, instead of investing millions of dollars in trying to reinvent the wheel.” That’s all I’m saying.

1520

**Mr. Tom Closson:** Yes, I would agree with that. If you looked internationally, probably the country we could learn the most from is Australia, which has equally good outcomes to Canada, and they’re able to do it at a significantly lower cost. Culturally and geographically, they’re fairly similar to this country. So I think we need to look across the country and somewhat internationally.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. The third party: Ms. Taylor.

**Miss Monique Taylor:** Thank you for being here with us today. May I ask, were you appointed to this position or did you seek this position?

**Mr. Tom Closson:** I sought it.

**Miss Monique Taylor:** Obviously, for reasons that you think that you could do better by our health system?

**Mr. Tom Closson:** Well, the health care system needs to keep getting better. As I indicated in the few remarks I made, I think the health quality council can play a significant role in that, giving advice to government. It’s a fairly new organization. I thought if I was going to pick an agency that I’d like to be on the board of, to help move it forward and make a contribution to how well the Ontario health care system operates, that this would be the agency. Therefore, I put my name forward.

**Miss Monique Taylor:** By listening to your report and by reading what I have in your biography that was presented to us here—the different geographic areas that you’ve encountered and that you’ve worked in, I think, would definitely help Ontario to do those things.

We’ve had a lot of problems with things like C. difficile, and that’s quality in our hospitals. I think a lot of that, too, seems more vocal to me, or maybe it’s just that I’m paying more attention now. But we contract out a lot of work out of our hospitals, and a lot of those things have become privatized. What are your thoughts on that?

**Mr. Tom Closson:** Well, C. diff is a problem, and it’s been a problem in Ontario probably for now maybe seven—no, actually, probably 10 years. It was a bigger problem in Quebec, and then it moved into Ontario about 10 years ago. People do die from C. diff if they get it, in some cases—in the minority of cases.

There are a lot of things that need to be done to prevent C. diff from being brought into a hospital and spreading in a hospital. Of course, one of the key things is people washing their hands. Until a couple of years ago, you never heard of people in hospitals talking about the importance of washing their hands, and that’s been, I think—if you look at the statistics, there’s been major improvement there.

Housekeeping is obviously very important as well, and some of it relates to what cleaning fluids you use. Some of it relates to how you clean things, how often you clean things. I would say what’s important is the standards. There’s evidence that suggests that cleaning one way

versus another will give you better results in the fight against C. diff. So if you can find a way to follow the standards, then that’s what you should be striving for.

**Miss Monique Taylor:** Yes. But back to contracting out and the privatization of that service: Do you think that’s doing us any justice by paying lower wages, and people are struggling to do a job in a small time frame that sometimes is humanly impossible? What are your thoughts on privatization?

**Mr. Tom Closson:** There are very few hospitals that have housekeeping contracted out—

**Miss Monique Taylor:** Hamilton.

**Mr. Tom Closson:** —and almost all hospitals have had problems with C. diff. So I don’t think this is a matter of contracting out versus not contracting out and that that’s what is having the impact on C. diff. I think it’s a matter of, are we doing cleaning in the right way?

Dr. Michael Gardam, who’s the head of infection control at UHN, where I used to work—you’ll see him quoted a lot in the media. His view is we need to keep going on this. The rate of C. diff is lower now than it was when we first started posting it a few years ago. It’s up this year versus last year, though. That may be a one-year blip, but it may be a trend, and that’s something we’ve really got to watch.

Then you may have seen in the media in the last 24 hours that somebody says they’ve got a new cleaning fluid which they’ve proven works much better than the ones we’ve been using so far in fighting C. diff.

I think that that’s the focus. We’ve got to look at evidence and make sure we implement evidence to fight C. diff just in the same way we would implement evidence for everything we do in health care.

**Miss Monique Taylor:** One more: We definitely know that we have a shortage of health care dollars. Again, I’ll take you back to my home city because that’s where I’m most familiar. In Hamilton we’re closing ORs. That used to be for two weeks a year for whatever needed to be done, but now it’s for a month. They’re claiming it’s for financial reasons. Do you believe that’s part of quality? What would your thoughts on that be?

**Mr. Tom Closson:** I think with operating rooms, the important thing is how long people have to wait for surgical procedures. As a volunteer, I chair the data certification council for Cancer Care Ontario, so before they post the data on their website, I and two other people go over it. We ask questions about data quality issues. I’m very close to the wait time information in Ontario.

For surgical procedures, of course we’re a lot better than we were. There are a couple of procedures that are starting to creep up again. I think the huge advantage that we have today that we didn’t have 10 years ago is that we have accurate information on how long people are waiting to get surgery. So if the closure of ORs is causing wait times to increase in Hamilton, we’re going to know really soon.

**Miss Monique Taylor:** Just keep it on your radar, because this wasn’t that they knew last year that it was going to be closed for a month. Doctors had booked these



two weeks of hospital OR times, and now patients are being told, "Sorry, we've lost our OR space, and we'll see you next year." It's a problem.

**Mr. Tom Closson:** One of the challenges as well, though, of course, is getting the OR staff, the nurses particularly, to be able to take their holidays. That is one of the reasons ORs get closed in the summer, because that's when people want to take their holidays. I don't know the exact situation that you're talking about, but I would say the best answer to the question is that we have good tracking mechanisms now to be able to see whether wait times are going up.

**Miss Monique Taylor:** Good. Good luck in your new position, because we definitely need some help. Thanks.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Miss Taylor. We'll go to the government. Ms. Jaczek.

**Ms. Helena Jaczek:** Well, Mr. Closson, I think the various positions you've held in health care are probably pretty well known to most of us here in committee.

I was just wondering if you could cast your mind back to when you were at Sunnybrook. I'm a particular fan of ICES, the Institute for Clinical Evaluative Sciences. Obviously, ICES has published many, many very interesting studies. Is there one that you could perhaps describe to us that particularly impressed you, that you were able to use as you went forward in your subsequent positions, particularly something that might relate to a quality issue? If you could illustrate something along that line.

**Mr. Tom Closson:** Well, ICES has produced a number of atlases, and I think now other organizations have taken on these atlases. They gave us a clear sense of where the system is performing well or not so well on a particular type of disease. They would do one on stroke; they would do one on heart disease, for example.

I'd say that the original ICES atlas on stroke and the subsequent work that has been done by the stroke group now, which has got the support of the Heart and Stroke Foundation, has identified that stroke is an area where there's tremendous potential to do better than we're really doing right now. I'll just give you a nice statistic which I find mind-boggling. If you were to have a stroke, the likelihood of you getting to an emergency department and having a thrombolytic in the appropriate time is 25% in Ontario. Maybe it has gone up to 28% now, or something like that. It has hardly budged in the last few years. Part of that is you, because you might be in denial, you know? People say, "There's really nothing wrong with me." Part of it might be where you were when you had the stroke and how easy it is to get access to a CT scanner. People who live in Toronto are very fortunate in terms of resources being very close by. In the rest of the

province, due to sparse populations, it's much more challenging for people to get access.

I would say what has helped me—because I worked at Sunnybrook, I worked at UHN, as I mentioned, and these are organizations that are stroke centres for the province, and I could see how we were using the information that was coming out of the early stroke atlas work to mould the way we organized our hospital and how it related to the rest of the system to try and provide better stroke care for people and get better outcomes: fewer people dying and fewer people disabled as a result of a stroke.

**Ms. Helena Jaczek:** Is there any particular area of the health quality council's mandate that you would find particularly interesting or that you feel you can particularly contribute to?

**Mr. Tom Closson:** The quality council has these three mandates. One is, they do some process improvement work. I mentioned I'm an industrial engineer, which really is about process improvement. But that's not the one I was going to pick.

The data, the annual reporting of indicators, are something that I've always been very interested in but that wouldn't be the one I'd pick either because I think we're refining that. There are so many indicators out there already we probably don't need a lot of new ones.

The challenge that I'm most interested in is the fact that we identify evidence, for example, about diabetes and what are the most important things for you to do if you're a diabetic on an annual basis. Then we look at the statistics about the extent to which these are actually done by the providers and the patients, I'll say, as a partnership, and it's low; it's very low and it's improving at a very slow rate.

I think we need to understand the evidence but also understand the barriers to the implementation of the evidence and what we could be doing better to support the implementation of evidence in a consistent way across the province.

**Ms. Helena Jaczek:** Thank you. No further questions.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Tom Closson, for coming in today.

We'll now consider the concurrence for Tom Closson, nominated as member, Ontario Health Quality Council. Will someone please move the concurrence?

**Ms. Helena Jaczek:** I move concurrence in the intended appointment of Tom Closson, nominated as member, Ontario Health Quality Council.

**The Vice-Chair (Mr. Phil McNeely):** Any discussion? Seeing none, all in favour? Motion carried.

So thank you, everyone. I believe we are now adjourned.

*The committee adjourned at 1533.*











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**Official Report  
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**Tuesday 4 September 2012**

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**Standing Committee on  
Government Agencies**

Intended appointments

**Comité permanent des  
organismes gouvernementaux**

Nominations prévues



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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES  
ORGANISMES GOUVERNEMENTAUX

Tuesday 4 September 2012

Mardi 4 septembre 2012

*The committee met at 0901 in committee room 1.*

## SUBCOMMITTEE REPORT

**The Chair (Mr. Bill Mauro):** Good morning, everybody, and welcome to government agencies.

Before we get started, we have one subcommittee report to deal with this morning. I need somebody to move its adoption. Mr. Walker?

**Mr. Bill Walker:** I move adoption of the report of the subcommittee on committee business dated Thursday, August 23, 2012.

**The Chair (Mr. Bill Mauro):** Thank you very much. Any comments? Thank you very much. It is carried.

## INTENDED APPOINTMENTS

## MS. MARIE FORTIER

Review of intended appointment, selected by official opposition party: Marie Fortier, intended appointee as vice-chair, Ontario Health Quality Council.

**The Chair (Mr. Bill Mauro):** Our first intended appointee today is Marie Fortier, who is nominated as the vice-chair of the Ontario Health Quality Council. Ms. Fortier, are you here? Could you please come forward? Thank you and good morning.

**Ms. Marie Fortier:** Good morning.

**The Chair (Mr. Bill Mauro):** You can begin with a brief statement, if you wish, Ms. Fortier. Any time used for your statement will be deducted from the government's time for questions. Each party will then have 10 minutes to ask you questions, and questioning will start with the third party. We'll open the floor and ask you to make your presentation. Thank you for being here.

**Ms. Marie Fortier:** Thank you, Mr. Chairman. Thank you very much for the opportunity to introduce myself to the committee.

I'll tell you a little bit about my background. It's mostly in the field of health, starting with my degree in health administration from the University of Ottawa. I spent 15 years in hospital management in Ontario, and some in Quebec. I also have a few years in regional planning in Quebec and at the local health integration network for eastern Ontario.

The last 20 years of my career were in the federal government, where I spent time in aboriginal health, health policy, Indian affairs and intergovernmental affairs.

I was on a number of boards throughout my career, some in a variety of institutions. After I retired, I was involved with an organization called the Institute on Governance, where I was a board member and, for about a year and a bit, I was also chair of that board.

In the federal government I was, in the latter part of my career, associate deputy and deputy in several departments, and part of that also in the Privy Council Office, where the intergovernmental affairs unit is located. I must say that that gave me a particular focus on the relationship between elected officials and the public service. I very much see an agency like Health Quality Ontario as an extension of the public service.

I think that what I learned most in those roles was the importance of providing neutral and evidence-based advice to government, to the elected officials on policy and program issues, but then to follow with competent execution of the direction given by government, by the elected officials, regardless of whether that direction was consistent with the advice given. That's the tricky part of being a senior official: giving that advice and then acting on the decision regardless of whether that was the one you were recommending.

I also learned a lot about inter-agency collaboration, which you'd think is an easy thing but is actually always more difficult than one expects, particularly in my role in intergovernmental affairs in the Privy Council Office. That was a huge part of my work.

After I left the public service and retired, I became chair of the Champlain Local Health Integration Network for one term, for three years. It was not exactly the very first years of the LHINs but close, very early in the work of the LHINs. There I had an opportunity to learn a lot more than I had earlier in my experience about the context of the government of Ontario and all of the structures, policies and processes that exist and evolve in the Ontario government.

The LHINs are in a similar agency relationship to the government as is HQO. They have legislation, of course, creating their mandates, but also the same instruments—like memoranda of understanding between the chair and the minister, business plans, annual reports—and the same appointment process as HQO.

I also think that the LHINs are important potential partners for HQO because of their unique relationship to health providers. They have tools under their legislation to require providers to link funding to performance, and



that's an important tool that HQO will be able to use in the long term.

The LHINs also have on-the-ground knowledge of the workings of the health care system in their own region and the particular issues, and I think that will also be a powerful collaboration for HQO.

As you probably know, I've been on the board of HQO since May 2011. Of course, I've learned a lot about its operations and mandate, particularly the challenges brought about under the Excellent Care for All Act, which broadened the role of HQO significantly. I therefore had an opportunity to be part of the board as the HQO strategic plan was developed in the last year. I've also been on a few committees of the board, so I've gotten myself involved in governance and nomination and management resources.

I'm not a scientist, nor am I a health clinician. My background before my MHA is in commerce. So I think my contribution to HQO as vice-chair will be more at the policy and system level; on the issues of collaboration and partnership, which I think are critical for the success of HQO; and of course in governance and government relations.

That completes my remarks, Mr. Chair.

**The Chair (Mr. Bill Mauro):** Ms. Fortier, thank you very much. You've used about five minutes, so when we get to the government side, you'll have about five minutes, should you choose to use it. I'll begin with the third party. Mr. Tabuns.

**Mr. Peter Tabuns:** Thank you very much for coming in this morning. I don't have many questions, but one that I wanted to get your thoughts on was: What do you think are the most important indicators of the quality of the health care system and the experience of patients in it?

**Ms. Marie Fortier:** There are so many indicators. In fact, I think our challenge is that we have too many. When reporting on them, if you look at the health quality monitors that HQO has released I think just in June, there are a lot of them.

To pick one, I think maybe the issue of readmissions to acute care is like a canary in the coal mine, because it's a symptom of a lot of other things not happening in the system both in terms of hand-off—transferring care from the hospital sector to community agencies—or the fact that there may not be an agency able to look after the needs of a particular individual. That's a powerful one, but you have to go beyond just that indicator. You can't blame the hospitals for readmissions per se. You have to decompose the reasons for them, and they may be different from one place to the other.

That's an important one. Is it the most important? Hard to say, but I think that that one—and HQO is focusing a lot in this area. I think that one is one. Of course, the overall health status of a community remains an important set of indicators, again signifying a lot of different things. You have to unpack these indicators very carefully.

**Mr. Peter Tabuns:** Thank you, Mr. Chair.

**The Chair (Mr. Bill Mauro):** Thank you. The government side.

**Ms. Helena Jaczek:** I think there's no doubt, Ms. Fortier, that your qualifications and experience would suit you admirably to be a member of the Health Quality Council, which of course you have been for a year.

You alluded to the strategic plan of 2012, and I believe there are a number of recommendations. Could you perhaps elaborate on one particular aspect of the strategic plan that you really want to see move forward over, say, the coming year?

0910

**Ms. Marie Fortier:** Thank you. I think that the most difficult one will be ensuring that there's uptake on the findings or the evidence that HQO can pull together—not that the evidence is all there just to be picked up; it's not that easy. Nonetheless—there was an interesting article in the *Globe* this morning about that very point—getting from knowing that a practice can be improved or streamlined or even not adopted—dropped completely—to ensuring that that gets built into everyday operation both in doctors' offices and hospitals, or indeed in community agencies, is not so easy. Changing people's habits is not easy. And sometimes it also changes the way money flows, which is also—let's be honest—a consideration. If you stop doing something that was a source of income for somebody, they're not going to enjoy that too much. That's the challenge: how you get from evidence to implementation, and who are the partners with whom you can work to make that easier?

One big area that remains a concern is getting the information easily accessible to everybody who needs it. We're still a long way from having that. As simple as you might think—the technology is there, by the way. The information technology is there to support that, but getting the information to flow through is still not quite where it should be. I think that will be the biggest challenge for HQO.

**Ms. Helena Jaczek:** Just as a follow-up, how does the Health Quality Council actually disseminate some of the findings directly to potentially the front line in health care? Is there a newsletter? I'm just thinking; I don't think I've ever received anything quite like that.

**Ms. Marie Fortier:** No, there isn't a newsletter, but there are several ways in which the health council disposes of its evidence. Sometimes it's recommendations to the ministry, and it's up to the ministry then to choose how to implement it. They have legislative powers, they have regulatory powers, and can use all those. Sometimes it's releasing information. That's a very indirect way. It's like rain: You hope it falls on the right plant, and if it doesn't, you're no further ahead.

I think the tools at the disposal of an organization like HQO are a bit limited outside of information and using the power of the government itself. That's why I think partnerships are going to be crucial.

**Ms. Helena Jaczek:** Thank you.

**The Chair (Mr. Bill Mauro):** Thank you, Ms. Jaczek. The official opposition: Mr. Pettapiece.



**Mr. Randy Pettapiece:** Thank you, and good morning. When you were chair of the Champlain LHIN, there were reports we have that there was over \$5.1 million spent on administration alone. We're quite concerned about the dollars spent in health care that maybe are not going to front-line health care. Can you give us some idea of how you can ensure that the money is getting to front-line health care, as we think it should be, instead of going to these massive administration costs?

**Ms. Marie Fortier:** That's an interesting question. In order to answer that, you'd have to look at what administration was costing before the LHINs were created, because there were other structures before that, district health councils and regional offices of the Ministry of Health, all of which have disappeared with the creation of the LHINs. It's not an add-on of whatever amount is spent in administration; it's really a reallocation. My guess is—I've actually never done the math myself—it's at least not more expensive than it was before, and it possibly is less.

But part of the role of the LHIN, of course, is to ensure that funding—they have that crucial role in allocating funding that the ministry determined. The ministry determines the pot, and over the years the LHIN has had gradually more power to redirect or reallocate that within the region so that it does get to the appropriate front-line organizations. That's really going to make a difference in the long term. It doesn't make a difference in one budget cycle or two or three, but over time you're starting to see already that there's more emphasis on primary health care and a lot of funding going to initiatives that help people with multiple chronic diseases—to keep them in the community and that sort of thing.

**Mr. Randy Pettapiece:** As I understand it, you can't give us figures on before-LHIN and after-LHIN; is that correct?

**Ms. Marie Fortier:** I'm sure somebody has done it; I haven't. I certainly don't have it top of mind, but I know that there was something like 100 employees in the district health council and probably at least as many in the regional office of the ministry. The LHIN—when I was there, there were about 35 employees.

**Mr. Randy Pettapiece:** Can you give us some overview as to where this \$5.1 million was spent?

**Ms. Marie Fortier:** Well, that depends what you count.

**Mr. Randy Pettapiece:** I just have "administration" here. That's a broad—

**Ms. Marie Fortier:** It's impossible for \$5.1 million to be spent in just administration in the LHIN itself, because the budget for—and perhaps that's the cost of all the employees and the operation of the LHIN, rent and all that stuff. Each LHIN is responsible for a budget for its region of a lot more than that.

Champlain, when I was there: I think the overall allocation for expenditures—and that excluded public health and excluded physician remuneration, drugs and everything. For the 200 agencies, the budget was over \$2 billion. Now, that's not the LHIN budget; that's the

regional health envelope that the LHIN is responsible for. If the cost of running that entire operation and entering into accountability agreements with 200 or more agencies is \$5 million, that's not administration. It's planning; it's accountability; it's a lot of different elements of ensuring that that \$2.2 billion is spent appropriately.

**Mr. Randy Pettapiece:** I think you can understand, though, that in these days of tight government budgets and everything else, we have to make sure that money is spent where it should be going. I can understand that \$5.1 million may not be a big figure in the overall budget of everything. It's still a lot of money, and I think we have to be careful that this money is spent wisely and where it should be going. Thank you.

**The Chair (Mr. Bill Mauro):** Ms. Thompson?

**Ms. Lisa M. Thompson:** Thank you very much. Good morning, Ms. Fortier. I'm sure you're aware that the Health Quality Council's mandate is transparent and accountable health care. I'm sure you'll agree that, in recent years, with the scandals like eHealth and Ornge, we've gotten away from that. So I was wondering: In your experience with the Champlain LHIN and other positions, what kind of interaction have you had with eHealth or with Ornge?

**Ms. Marie Fortier:** With Ornge, zero. With eHealth, yes, because each LHIN had some responsibility for thinking through the implementation of electronic health records in their region. By the way, that's going to be an important element to better accountability and transparency in the system as data on the utilization of services and how people are treated in the system becomes available on a much larger scale. In that context, we had dealings with eHealth at the LHIN, but it was at the level of proposals and our own regional plans being submitted for funding for specific initiatives, but not at the level of their governance or anything of that sort.

**Ms. Lisa M. Thompson:** Okay. Thank you.

**The Chair (Mr. Bill Mauro):** Mr. Walker?

**Mr. Bill Walker:** Ms. Fortier, the cuts in the OHIP fee schedule will influence every community's access to certain medical services. For those watching at home or reading the transcripts, my concern is that it's being spun as that there will be a reduction in fees to people and, really, they're not going to see any because directly people did not pay those fees, but a cut to the physician who performed those fees is obviously very evident. Did the Health Quality Council endorse or oppose this move by government?

**Ms. Marie Fortier:** I don't believe it would be in its mandate to do either, and it hasn't been discussed by the Health Quality Council, no.

**Mr. Bill Walker:** So you were not consulted, despite that being a fairly significant area of your—

**Ms. Marie Fortier:** No, we weren't.

0920

**Mr. Bill Walker:** I guess the subsequent question to that would be that the government spent over \$7 million on your agency, but didn't consult you. So I have a bit of a concern. You're mandated to look at overall health



quality, and yet there's no government coming to you asking. So, if you could share with me how you believe you would be better able to influence and ensure that there's a better relationship going forward, it would certainly be helpful.

**Ms. Marie Fortier:** I don't believe HQO should be looking for expanding its role at the moment. I think there's a lot already under the new legislation that needs to be done well, and if there are areas in the future on which the government wants further advice, they'll ask. The one area that connects to your point is evidence-based funding, on which HQO is doing some work, but the form that could take—it won't be specifically about remuneration to one or the other group of professionals; it may well be about bundles of care and how they should be structured and organized and costed, which is a slightly different perspective than talking about fees or fee schedules.

**Mr. Bill Walker:** And a final point of clarification, if I could. You have vast experience in a number of different areas of the health care sector. It would seem to me logical that Health Quality Ontario would have been at least consulted. You're in the midst of all of this in ensuring that there's quality across the spectrum. Would you concur that you should have at least been consulted by the government before this was marched out?

**Ms. Marie Fortier:** Not necessarily. As I say, I don't think Health Quality Ontario can be everything to everybody. I think there are areas in which it's the prerogative of the minister and the ministry to choose who they'll ask advice from. As I say, HQO has a lot of responsibilities, and, for the time being, I think that expanding them prematurely would just make it unrealistic for HQO.

**Mr. Bill Walker:** Thank you.

**The Chair (Mr. Bill Mauro):** Thank you very much for your time, Ms. Fortier. Our time is up. We'd appreciate it if you could take a seat in the audience.

#### MS. CAMILLE EDWARDS

Review of intended appointment, selected by official opposition party: Camille Edwards, intended appointee as member, Trent Hills Police Services Board.

**The Chair (Mr. Bill Mauro):** Our second intended appointee today is Camille Edwards—Ms. Edwards, are you here? Please come forward—nominated as a member for the Trent Hills Police Services Board.

Ms. Edwards, you may begin with a brief statement if you wish. As is usual, any time you use for your statement will be removed from the government's time for questions, and then each party will have—

*Interjections.*

**The Chair (Mr. Bill Mauro):** You have up to 10 minutes. So, thank you for being here. Please begin.

**Ms. Camille Edwards:** Thank you, Mr. Chair and ladies and gentlemen. Thanks for the opportunity to attend here today and speak to you on my intended appointment.

In 1998, my husband and I moved to Hastings, now part of Trent Hills, where we purchased a business. In 2000, my husband went into politics and I began my involvement with the community. Shortly thereafter, our daughter and son-in-law followed us to Trent Hills to live in Campbellford, and I now have two beautiful granddaughters.

I became involved with some community groups: the Hastings breakfast program and Hastings community policing. I have been involved with community policing for 12 years and work with a dedicated group of volunteers. We work closely with council, our police services boards, our liaison officer, the police and the community. We're involved in the grade 6 DARE program in five elementary schools in Trent Hills and started Positive Decisions, Positive Choices for the grade 8 students.

We're involved in programs such as Lock It or Lose It, bike rodeos, checking for seatbelts, speeding, and the Kids, Cops and Canadian Tire Fishing Derby for kids aged 5 to 14.

I have attended several PACT police services boards meetings. I still continue my involvement with many community organizations and sit on several committees of council, as I like to keep busy.

That's my little blurb.

**The Chair (Mr. Bill Mauro):** Thank you very much. We'll begin with the government side. Ms. Jaczek.

**Ms. Helena Jaczek:** Thank you, Chair. So you're already very active in your community.

**Ms. Camille Edwards:** Yes, I am.

**Ms. Helena Jaczek:** It sounds like you've got a lot on your plate. What exactly has made you want to sit on the police services board now?

**Ms. Camille Edwards:** As I said, I've been in community policing for 12 years, and I think the police services board—policing, period, is very important in any community. It's a very big part of a municipal budget, so you need to have effective policing. As I've been to several of the PACT meetings, and the police services board, I knew they were short. One provincial member had resigned last year. I knew they were short and I thought maybe I would try my hand at the police services board because, as I said, I've been so involved with community policing.

**Ms. Helena Jaczek:** And you're a former councillor—

**Ms. Camille Edwards:** I am a former councillor.

**Ms. Helena Jaczek:** —and former deputy mayor?

**Ms. Camille Edwards:** Yes.

**Ms. Helena Jaczek:** Oh, I see. Okay. Thank you. How do you feel the role of deputy mayor will have prepared you for the police services board?

**Ms. Camille Edwards:** Well, I think being a councillor and a deputy mayor—I mean, I was involved with one contract we did with the OPP, which was very challenging—I learned a lot—but it was very successful at the end and both parties came to a very good agreement. The police services board always submitted their reports to council every month, so I was able to read



what was going on. I'm so involved with the community, and even in a small place like Trent Hills certain things are on the rise, like drugs and vandalism. So I really think I could be effective, because having worked with the people as well, we get a lot of feedback. Even if you're going for breakfast or a coffee, they stop you and ask you questions. You can't evade it in a small community.

**Ms. Helena Jaczek:** Could you maybe describe for us one of the programs you were involved with with community policing, something that you felt was particularly effective?

**Ms. Camille Edwards:** The DARE program. We've been doing it for years; we find it's very effective. For the last couple of years we've had a very good community liaison officer, and the kids—when we go to the DARE graduations, because community policing does go—just interacted so wonderfully with her. We've never taken statistics on whether it's working, but I think it's working, because being in that community such a long time, I've seen them now in high school. It seems to be working. They're very proud to wear their DARE shirts. Let's face it, drugs are everywhere, and I think if we can catch them in grade 6—and then we started something in grade 8 going into grade 9, Positive Decisions, Positive Choices, which is just a reinforcement of the DARE program but a little bit more involved.

**Ms. Helena Jaczek:** Okay. Thank you.

**The Chair (Mr. Bill Mauro):** Thank you, Ms. Jaczek. The official opposition: Mr. Pettapiece.

**Mr. Randy Pettapiece:** Thank you. You've been a member of the Trent Hills council. You're currently not a member of that?

**Ms. Camille Edwards:** No.

**Mr. Randy Pettapiece:** Your remuneration is paid out of municipal funds, I would understand. Is there a per diem or annual pay for appointed members of this council?

**Ms. Camille Edwards:** I really do not know what one gets paid to sit on the police services board. I've never been bothered to ask about that—even now, applying for this.

**Mr. Randy Pettapiece:** When I first became a councillor for where I'm from, I never knew what the pay was either. It was more of wanting to do the job and—

**Ms. Camille Edwards:** I agree with you there. It is wanting to do the job.

**Mr. Randy Pettapiece:** The province is in a financial squeeze, and I'm sure it's been well publicized and you know about that. Because Trent Hills contracted with the OPP, policing at the local level may be affected by changes in provincial legislation. That had been hinted by this current government. How can the police services board ensure that the people of Trent Hills will not suffer if the present government decides to take on the OPP and their contracts?

0930

**Ms. Camille Edwards:** First of all, I have no idea what you're talking about with respect to the present

government doing something with the policing. I don't know.

**Mr. Randy Pettapiece:** We're talking about public sector wage freezes.

**Ms. Camille Edwards:** I haven't really been following that.

**Mr. Randy Pettapiece:** I see.

**Ms. Camille Edwards:** So I cannot really comment on that until—if I'm appointed, and then see what the other members feel about it and see what is going on. So I don't feel comfortable commenting at this time.

**Mr. Randy Pettapiece:** All right. Thank you.

**The Chair (Mr. Bill Mauro):** Ms. Thompson?

**Ms. Lisa M. Thompson:** The Ontario Association of Police Services Boards has complained of the increasing costs of OPP contracts, for which your municipality contracts for services, and I want to share a quote with you from the president of the Ontario association:

"We are particularly concerned about the rapidly increasing costs of OPP contracts, which are not transparent and leave municipalities on the hook for millions of dollars in unexpected costs.... We need to find a solution urgently because, quite simply, municipalities and taxpayers can no longer afford to pay."

Given your previous experience on municipal council, are you familiar with the current agreement that is in place with the OPP?

**Ms. Camille Edwards:** I am not familiar with the entire—like, what the contract was. I do know that they're paying almost \$3 million, and as a part of a municipal budget it's always been a very big expense. Now, I know at the end of the contract sometimes we get money back; sometimes we have to pay more. It just depends on what services were involved.

I agree with you that it is a big part of a municipal budget, and with small communities the taxpayers are in your face because it is small communities and they're the ones that have to foot the bill. But you also need police services. Since we've had the OPP, I think we've had very good services.

**Ms. Lisa M. Thompson:** Okay. Very good. And how do you monitor the contract's ROI, the return on the dollars paid or the investment, to ensure that you're getting value for the money?

**Ms. Camille Edwards:** Well, I know one of the things we do talk about with the contract is how many officers you need for your area. Sometimes we'll say, "No, maybe it's too much," or whatever. We sort of bandy it back and forth. But at the end of the year, as I said, if they don't give us services, they will give us money back.

**Ms. Lisa M. Thompson:** Okay.

**Ms. Camille Edwards:** But sometimes we ask for more services, so then we have to pay more.

**Ms. Lisa M. Thompson:** Right. Can you tell me the population of Trent Hills?

**Ms. Camille Edwards:** It's just over 12,500. It's very spread out, though.



**Ms. Lisa M. Thompson:** And how many officers cover that area?

**Ms. Camille Edwards:** I'm not sure what they have in the new contract.

**Ms. Lisa M. Thompson:** All right. And just to close, are you aware of the fact that the current agreement with the OPP has had them at a zero increase in terms of pay increase over year one and year two of their current agreement, but in year three there's going to be a sizable pop in terms of salaries? On average, it's about 10%. I've heard between 8% and 12% that this government has negotiated. So it's like, "Take it easy on us, take a zero increase, and then we promise you a big whopping sum of money in year three."

How on earth could—because you said that your municipality experiences a huge expense for the services. Knowing now that in year three of the provincial contract with the OPP there's a promised increase, on average, of 10%, where do you see those dollars coming from or how would the municipality deal with that?

**Ms. Camille Edwards:** You're talking about a 2012 contract?

**Ms. Lisa M. Thompson:** Yes.

**Ms. Camille Edwards:** As I said, I've not been involved in that.

**Ms. Lisa M. Thompson:** Okay.

**Ms. Camille Edwards:** I'm taking your word for what you say, that it's going to go up. Sometimes you just have to find the money if you need the services, and I would hope that the present council has figured out something. I don't know. It's something that you don't know that far ahead, what you're going to do or what you'll be drawing in in tax dollars.

**Ms. Lisa M. Thompson:** Okay. So would you agree sometimes the government's short-term band-aid solutions can truly handcuff a municipality along the way?

**Ms. Camille Edwards:** Well, it's not just with policing. It's with infrastructure; it's everything. Small municipalities have a problem in coming up with the money. That's why we're always looking for grants and funding from whichever government is in power, because we're a small tax base. All over Canada there's one taxpayer. Whichever way you look at it, it's one taxpayer. In municipal politics and in small communities, water, sewer, all of that is very expensive, but you know what? You've got to offer recreation, you have to offer these things, and you do the best you can.

**Ms. Lisa M. Thompson:** Okay. Thank you so much. I appreciate it.

**The Chair (Mr. Bill Mauro):** Mr. Walker?

**Mr. Bill Walker:** Good morning, Ms. Edwards.

**Ms. Camille Edwards:** Good morning.

**Mr. Bill Walker:** Just following on that line of thought, you made a comment that you just hope you'll find the money somewhere. So if it came to the point where this increase was going to come and you had a decision to make to either go into debt to finance this or to hold the line on that increase, which way would you vote?

**Ms. Camille Edwards:** It's very hard to say something like that when you're talking about in the future because I don't know what other things will be around at the time that would be considered by council. So it's very hard.

I know when I joined council in 2005, our hospital needed very huge repairs, and we are very lucky to have a small hospital in our community. We did a levy. Now, with some people it didn't go down very well, but what we did was, we put a time limit on it. It was going to be so much money. The time limit was going to be, I think it was, two or three years, and we burnt the bylaw at the end. We raised money that way for the hospital, and it worked very well. But you're not going to please everybody all the time and sometimes you have to make a difficult decision.

But to answer your question, I don't know what my decision would be, what the council decisions would be in the future. I don't know. I really can't answer that.

**Mr. Bill Walker:** Okay. I would only add that it would be very tough, I think, to go to the community to fundraise for policing. I've fundraised for hospitals. It's one thing to do that. Certainly to go to the police and say, "I'm going to go out fundraising for more money for your salaries," I'll suggest good luck with that.

**Ms. Camille Edwards:** I agree with you. But I remember, it must have been four or five years ago, we were talking about policing because all these big issues always pop their head up. It was in Hastings, which is my—I was a Hastings councillor. They were willing to pay more money. It was a shock. So sometimes you never know what's going to happen.

**Mr. Bill Walker:** Yes. On a similar but different topic, many municipalities, my area included, are struggling with large amounts of unpaid fines. Certainly Trent Hills, from what I'm being led to believe, has shown activism on policy matters relating to photo radar and those types of things. What approach would you take in regard to the unpaid fines, to collect those?

**Ms. Camille Edwards:** I don't think we have photo radar. I know they've been asking—the police services board, I read somewhere, wants photo radar to come back in, but we don't have photo radar. We go out with a little gun, community policing and just—we just take statistics. That's what we do.

**Mr. Bill Walker:** Okay. So I'll separate that into, then—we'll leave the photo radar.

**The Chair (Mr. Bill Mauro):** You have 30 seconds left, Mr. Walker.

**Mr. Bill Walker:** Unpaid fines: How strict would you be and what approach would you take to recover those?

**Ms. Camille Edwards:** If I remember well, I thought our unpaid fines were dealt with through Cobourg or something, but I could be wrong on that. But I think it sort of goes through—it's not us that—

**The Chair (Mr. Bill Mauro):** Okay, Ms. Edwards. Thank you very much for your time. The time is up, Mr. Walker.

Thank you for your presentation. If you—oh, I'm sorry. Mr. Tabuns, my apologies. The third party.



**Mr. Peter Tabuns:** Not a problem, Mr. Chair. Ms. Edwards, thanks for coming this morning. I have no questions for you.

**The Chair (Mr. Bill Mauro):** Thank you. Thank you, Ms. Edwards.

**Ms. Camille Edwards:** Thank you.

**The Chair (Mr. Bill Mauro):** Okay, we'll now proceed with the concurrences for today's intended appointees and first consider the concurrence of Marie Fortier, nominated as vice-chair, Ontario Health Quality Council. Could I have someone move the concurrence? Ms. Jaczek.

**Ms. Helena Jaczek:** I move concurrence in the intended appointment of Marie Fortier, nominated as vice-chair, Ontario Health Quality Council.

**The Chair (Mr. Bill Mauro):** Thank you. Any discussion?

All in favour? Opposed, if any? It's carried. Thank you very much.

We'll now consider the concurrence of Camille Edwards, nominated as member, Trent Hills Police Services Board. Would someone please move this concurrence? Ms. Jaczek.

**Ms. Helena Jaczek:** I move concurrence in the intended appointment of Camille Edwards, nominated as member, Trent Hills Police Services Board.

**The Chair (Mr. Bill Mauro):** Thank you. Any discussion?

All in favour? Opposed, if any? It's carried. Thank you very much.

Congratulations to both Ms. Fortier and Ms. Edwards. Thank you for being here.

That concludes our business.

*The committee adjourned at 0940.*











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